

WASHINGTON, D.C. 20506

October 30, 1974

MEMORANDUM FOR Committee II: Intelligence

Amb. Robert D. Murphy, Chairman  
Rep. Peter H. B. Frelinghuysen  
Mr. Arend D. Lubbers  
Dr. David M. Abshire  
Mr. William J. Casey

SUBJECT: Further Reading Material on Intelligence

In partial preparation for the November 18 meeting of Committee II, we are forwarding a set of papers, assembled by Tom Reckford, concerning the recent "Conference on the CIA and Covert Action." The conference, which was held in Washington, was sponsored by the Center for National Security Studies. The papers include:

- a. Reckford's summary of the proceedings.
- b. "The View From Langley" ... an important speech by William Colby, the Director of Central Intelligence, which discusses covert action in an open way for the first time.
- c. "Implications of Decision-Making for Covert Operations" by Morton Halperin, an essay that draws some provocative suggestions for organizational and procedural change from three case studies.
- d. "Following the Scenario: Reflections on Five Case Histories in the Mode and Aftermath of CIA Intervention" by Roger Morris, a highly critical examination of some little-known cases with several suggestions for change.

The research papers commissioned on covert operation will also be forwarded as soon as they are ready.

Francis O. Wilcox  
Executive Director

Enclosures

SUMMARY

Mr. William E. Colby, Director of Central Intelligence

11/19/

I. Introductory Remarks

Mr. Colby began his informal remarks by addressing the dilemma of maintaining secrecy in a free society: "we are going to have to run an American intelligence service," but it must be "different from others." It has no domestic responsibility, and it is more open than its counterparts in Britain, France, Sweden, or anywhere else. Indeed, the CIA's constant exposure in the press makes it difficult to conduct liaison with foreign intelligence services and to recruit agents. It can also effect our use of such technical collection methods as cryptography and photography.

Colby then traced the history of intelligence in the U.S. He pointed out that the government invariably constructed an intelligence system in wartime, then dissolved it afterwards. It took the advent of the Cold War to produce a peacetime intelligence apparatus. The National Security Act of 1947 established the CIA and gave it the responsibility to draw together information collected by other services and Departments. In addition, the CIA was given the authority to conduct certain services of common concern and, as directed by the National Security Council, "other functions related to intelligence", such as clandestine collection operations abroad as well as paramilitary and political operations.

According to Colby, intelligence has come of age but must prove its usefulness in a period of detente and lessened tensions overseas. He believes that intelligence has become an essential part of the conduct of foreign policy but that those in the intelligence business must work hard to make the system work. Colby explained that his responsibility for coordinating and managing the intelligence community was important, but less so than his responsibility for producing substantive intelligence... "to be able to inform the President, the NSC, the appropriate committees of Congress and so forth, of what is happening in the world." He added that, if he could focus on the substance and get the entire community also focussed on substantive questions, he would be in the best position to allocate resources and to measure the effectiveness of different techniques of collection, processing, and analysis.

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wants us to." He later remarked that the Congressional oversight committees have been very responsible and "have been given the most sensitive kinds of information... We have never had a leak from them."

Colby explained that the CIA handles its relationship with Congress on three levels: unclassified briefings; substantive briefings, with classified material, for a number of committees and for individual members; and a discussion of operational matters with the Armed Services and Appropriations Committees of the House and Senate. In the last few years of Senator Russell's rule over the Armed Services Committee, Senator Mansfield and two other members of the Foreign Relations Committee were also invited to participate in the oversight hearings.

Dr. Abshire pointed out that there should be a better system for giving substantive information to interested members. Colby said that the CIA does brief individual Congressmen and Senators upon request and that he had committed himself in his confirmation hearing to be even more responsive in this area. He said, "I have some people looking now at a way to do this on a regular, periodic basis... It will...push some of this material towards them that they really might not know they want to know." Dr. Abshire suggested that, every six weeks, intelligence briefers might give interested members of Congress a general rundown of world events and stress emerging problems. Colby said he would be delighted with this approach.

Dr. Abshire then asked Colby for his views on Senator Cooper's bill about National Intelligence Estimates being made available to Congress. Colby replied that briefings of Congress are often based on NIE's, but that he was concerned about the physical security of the NIE's themselves and leery about sending NIE's to Congressional staff assistants, who might be prone to leak intelligence information. Colby was hesitant about absolute rules in this regard and suggested that briefings be handled orally whenever appropriate. He added, however, that the CIA could adjust to any changes in Congressional procedures on this matter.

c. The Relationship of Intelligence to Foreign Policy

Mr. Colby suggested that the CIA should maintain a certain distance from the foreign policy process -- providing assessments of foreign situations but not casting a vote for a particular policy. Dr. Kissinger regularly requires

an intelligence briefing before meetings of the Washington Special Action Group. After that, Colby says no more.

Colby added that the President reads intelligence daily briefs and other material. Furthermore, Colby can see the President any time he wants (as of November, he had seen him on intelligence matters three or four times).

Dean Wilcox asked whether Colby received ample reports on the discussions of the President and Dr. Kissinger with high level foreign officials. Colby said he personally is privy to the general line and must levy requirements on the intelligence community without giving any details.

d. Organization of the Intelligence Community

When asked about the extent of his own authority, Mr. Colby described his role in the community. As DCI, he chairs the U.S. Intelligence Board, the Intelligence Resources Advisory Committee, and various other committees that pass on certain sensitive collection programs. Colby also has the last word on National Intelligence Estimates. He is, in short, the President's principal intelligence advisor...the only one who regularly attends meetings of the various NSC subcommittees, the WASAG, the 40 Committee, and the Cabinet. Colby is also Vice-Chairman of the NSC Intelligence Committee, which is designed to solicit the views of intelligence consumers.

Colby said that relations between the intelligence agencies used to be competitive, but now are maturing. There are, however, "many areas in which we can work together much better," e.g. in coordinating the activities of military attaches. Colby explained that different agencies have to be involved in the process of collecting information. Foreign Service Officers and attaches have unique contacts abroad and can collect a lot of information overtly. The CIA's job is to collect information clandestinely that cannot be collected any other way.

Colby admitted that there was some overlap in functions, but that this was often deliberate. Thus the CIA's office of Strategic Research takes on independent look at basic military questions. Furthermore, each agency or Department head insists on having his own intelligence support. Said Colby, "when I go to the President with an assessment of some new Soviet missile...I have to be assured that I am right...and not just parrot what a particular agency says." There is also a distinction

between national intelligence (in support of foreign policy) and departmental intelligence (in support of individual departments and agencies). DIA, for example, contributes to national intelligence but also serves the Joint Chiefs and the Secretary of Defense.

Colby pointed out that the total number of people in the intelligence business is going down sharply and will continue to do so. It has to because of sharp annual increases in personnel costs.

Colby said it was useful to have analysts, collectors, and operators all under one roof. He likes experts in one field talking to experts in another, and not hiding in their ivory towers. The National Intelligence Officers (NIO's - successors to the Board of National Estimates) cut across functional lines within the bureaucracy and thus get the best brains working on any given problem. The NIOs are real specialists in their fields (and not generalists like the former Board of National Estimates).

When asked what organizational changes he would recommend, Colby said that he would like the authority to deter someone from getting sensitive information out, then spilling it [redacted] When asked 25X1 about the National Security Act of 1947, Colby recommended that the word "foreign" be put before the word "intelligence," so the public would be reassured about the limits of CIA 25X1 authority.

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i. Indo China in General

Senator Mansfield said that, in his opinion, the best intelligence reports on Vietnam were furnished by the CIA, and it was too bad that these reports were not given proper attention by the administration. 25X1C



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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20503

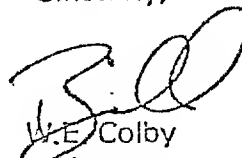
November 7, 1973

The Honorable Robert D. Murphy, Chairman  
Commission on the Organization of the Government  
for the Conduct of Foreign Policy  
2025 M Street, N.W.  
Washington, D.C. 20506

Dear Ambassador Murphy:

In response to your letter of October 15 I have developed the attached statement which provides an overall response to the matters you suggested for coverage in my presentation to the Commission in November. I developed this in unclassified form, as I believed it the most useful vehicle to stimulate future questions and thoughts by the Commission members in the actual hearing. I am certainly prepared to go into classified matters during the hearing itself, or in any follow-up studies of more detail which might be needed as you proceed toward your final report.

Sincerely,

  
W.E. Colby  
Director

STATEMENT BY THE DIRECTOR OF CENTRAL INTELLIGENCE

First, let me confirm your assumption about what the national intelligence program is. Our intelligence process includes the collection and analysis of information in order to produce what we call "finished intelligence." We use overt, covert, technical, human, passive, and active collectors. The information collected is then "processed"-- that is, it is recorded, compared with other information, and subjected to the appropriate techniques of scientific examination such as photographic interpretation, electronic analysis, and decryption. This "processing" of information is followed by what we call the "production" of "finished" intelligence -- in the form of reports, studies, and estimates which reflect the highest intellectual evaluation which we can bring to bear upon all the bits and pieces of fact and impression at our disposal. The entire intelligence process which I have described relates to foreign intelligence and counterintelligence, although a number of steps in the process obviously have to take place in the United States. In addition to collection, processing, and production, from time to time CIA also conducts other activities related to intelligence affecting the national security, as directed by the National Security Council.

The current organization of the Intelligence Community is reflected in the President's directive of 5 November 1971. It called for the following:

- That the Director of Central Intelligence (DCI) provide leadership to all foreign intelligence activities of the United States Government.
- That there be established a National Security Council Intelligence Committee (NSCIC).<sup>\*</sup> The purpose of the NSCIC is to give direction and guidance on national substantive intelligence

*\*Members are: The Assistant to the President for National Security Affairs (Chairman), the Under Secretary of State, the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the DCI.*

needs and to provide for the continuing evaluation of intelligence products from the viewpoint of the intelligence consumer.

-- That the Intelligence Resources Advisory Committee IRAC be formed.\* This Committee is advisory to the DCI in his management role. It helps him develop the annual National Foreign Intelligence Program Budget Recommendations which are sent by the DCI to the President--Recommendations which may concern any of the foreign intelligence expenditures of the United States Government.

-- That the United States Intelligence Board (USIB)\*\* be reconstituted to include a representative of the Secretary of the Treasury, and that it continue to advise and assist the DCI in his substantive leadership role with respect to the Intelligence Community.

Not addressed by that directive but continuing to operate is the so-called Forty Committee.\*\*\* This body provides policy guidance on activities related to intelligence affecting the national security, as directed by the National Security Council.

*\*Members are: the DCI (Chairman), and one senior representative each from the Department of Defense, the Department of State, the Office of Management and Budget, and CIA.*

*\*\*Members are: The DCI (Chairman); the DDCI; the Director of the Bureau of Intelligence and Research, State Department; the Director of the National Security Agency (NSA); the Director of the Defense Intelligence Agency (DIA); representatives of the Secretary of the Treasury, the Federal Bureau of Investigation, and the Atomic Energy Commission.*

*\*\*\*Members are: The Assistant to the President for National Security Affairs (Chairman), the Under Secretary of State for Political Affairs, the Deputy Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the DCI.*

In his letter to me of 15 October, Chairman Murphy outlined a number of specific subjects which he wished me to address in my statement and in follow-up studies of the Commission. I have generally keyed the following remarks to the numbered sections of that letter.

(1) Authority

The National Security Act of 1947, certain additional legislation, and the National Security Council Directives provided for in law are the authorities under which the national intelligence program operates. The legislation is currently being re-evaluated by the Congress, and it may be that some modifications will be made. To the extent that any changes further limit the national intelligence activities in which the DCI is interested to the field of foreign intelligence, and to the extent that they require the reporting of foreign intelligence activities on a regular basis to certain members of the Congress, I would welcome them. The public should be as free as possible from concern about the operations of our national foreign intelligence program.

The National Security Council Directives which I mentioned are currently under evaluation to determine whether an unclassified version can be written. This would help to eliminate any possible misunderstanding about the existence of a "secret charter" for CIA or the Intelligence Community. At the same time, some classified directives will be necessary to specifically implement the unclassified guidance of the open directives.

I do not view subordination to the NSC as different from subordination to the President. The NSC historically has played different roles in foreign policy and national security affairs under different Presidents. But no President in recent times has been willing to function without access to good intelligence -- whether by direct contact with appropriate agencies or through the NSC system.

The responsibilities of some of the agencies of the Intelligence Community to produce both "departmental"

and "national" intelligence are not in conflict. In fact, they are mutually supporting. The military services, for instance, have intelligence arms which provide the tactical intelligence necessary to support the operational forces. They also contribute information and analysis to those in the Community who work on "national" level problems. A study is now underway to determine how these programs can better support each other for both substantive benefit and possible resource savings.

The DCI's responsibility to "protect intelligence sources and methods from unauthorized disclosure" is basically a responsibility without authority. I do not view it as giving any authority beyond the right to call the attention of the appropriate prosecuting authority to any cases of unauthorized disclosure. In this regard I confess great concern at the absence of any effective statutes to prevent or punish the unauthorized disclosure of sensitive intelligence matters. It was only by civil action based upon his pre-employment secrecy agreement that an ex-employee was prevented from revealing a number of delicate matters in a book which he had written. (U.S. vs. Marchetti, 466 F. 2d 1309, 1316). This decision is being tested again.

Aside from this particular weakness of the statutes, I see no need for particular new authority to carry out an effective intelligence program. The "services of common concern" mandate in the current law is adequate, though of course there are always minor negotiations between agencies about the kind and quality of service to be performed.

You have asked whether section 102 (d) (5) of the National Security Act, which provides that the CIA shall perform such other functions and duties related to intelligence affecting the national security as the NSC may from time to time direct, is too broad and open-ended. This is currently being considered in Congress. I would offer that this provision has been used only when specifically directed by the NSC under Presidential authority, that every President since 1947 has used it, and that the shape of the world today seems to require its use much less often than in the more critical of the cold war years. I do not believe that this weapon should be lightly discarded from our national arsenal.

Section 102 (e) of the 1947 Act, which gives the CIA the right to see the foreign intelligence of all of the departments



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and agencies, is a key factor in molding a group of intelligence agencies into a community. Without that right, there could be no single source of intelligence advice which accounted for the variety of available facts, and the policymaker would be buried in a confusion of uncorrelated reports and analyses about major problems and events.

## (2) Requirements

The principal customer of our national intelligence program is, of course, the President. But his key advisors and officers need also to be informed (i.e., the Assistant to the President for National Security Affairs, the Secretaries of State, Defense, Treasury, and so on). Their requirements are a compilation both of their expressed needs and of the Intelligence Community's judgment about what they might need.

There are a variety of techniques for refining such requirements. The USIB and the DCI have established and continually review a formal list of relatively constant major requirements. Crisis requirements are generally conveyed to the proper action arm of the Community as a result of my participation in the Washington Special Action Group (WSAG) which meets regularly and keeps me informed of activities which might benefit from intelligence support.

In non-crisis situations, requirements for information come to the Intelligence Community in a wide variety of effective but not necessarily orderly ways. On a daily basis, policy-oriented analysts are in contact with intelligence analysts and make their needs known in that context. Through the requirements staffs of each intelligence agency, collection components can be tasked. Formal requests for specific facts or analyses also come by letter or telephone from USIB principals, Cabinet members, and the NSC/National Security Advisor level. Policymaker feedback to the Intelligence Community on intelligence problems below the first level of priority, or in non-crisis situations, generally does not give a clear enough signal about how much collection and analytical effort the Intelligence Community should expend on a specific subject. The Community tasks itself when this is the case.

The DCI has no authority to determine the budget and manpower needs of the various agencies in the Intelligence Community. Each component goes through an independent program and budget development process (in the case of State and DOD intelligence programs there are department-wide guidances and constraints which apply apart from intelligence considerations). Each component has an independent review by the OMB. Each component receives from the Congress an appropriation which is under its full control. The program proposed by each component to the Congress is reviewed, however, by the Intelligence Community (IC) Staff of the DCI. From IC staff suggestions, IRAC deliberations, and USIB requirements, the DCI formulates his National Foreign Intelligence Program Budget Recommendations for the President.

The major resource problem facing the Community is inflation; first in manpower costs, but in all other aspects of our profession as well. The problem can be stated in this way:

a. assuming level manpower, level program size, and continued inflation, the resources for intelligence would have to increase by nearly 25 percent by 1978. This alternative would be unacceptable to the Congress.

b. assuming level dollars, a level program, and inflation offset by manpower reductions, a 40 percent cut in manpower would be required by 1978. The Community could not take such a cut and continue to meet its obligations.

c. assuming level dollars, level manpower, and continued inflation, there would have to be a drastic and unacceptable cut in our investment in technical systems for the future and in procurement.

The solution to the dilemma posed above lies in the hands of the President and the Congress. We can help by

reducing our breadth of coverage -- by keying on the most important issues and cutting activities and area coverages which do not contribute directly to the resolution of the highest priority problems. It is the job of the DCI to advise the government as to what constitutes a sufficiency of resources -- in dollar terms, in terms of the systems the dollars will support, and most importantly in terms of major substantive need.

#### (4) Evaluation

Evaluation of the performance of the Intelligence Community is a relatively untapped field. For years evaluative efforts have been made within the Community itself, but as I have suggested above, we have not had a strong standard of pre-established user requirements against which to measure ourselves. As a consequence, measurements of effectiveness have usually been taken during or following some crisis which might or might not have been of prior concern to policymakers. Our reviews under such circumstances have been mixed. At the same time, on such "constants" as SALT verification and MBFR support we would get high marks.

I have asked my Intelligence Community Staff to concentrate heavily on the development of a method to evaluate our performance. I hope to establish standards and to have regular measurement of the effectiveness of all aspects of the profession underway within a year.

#### (5) Other Intelligence Activities

Foreign counterintelligence activity is designed to protect the U.S. government and the private sector from penetration or manipulation by the intelligence services of other countries. It is our defensive arm, and in this respect it is an important adjunct to the conduct of foreign policy.

In general, intelligence activities in support of operational military forces are subject to direction from the Joint Chiefs of Staff (JCS) and the Unified and Specified Commanders in the field. The information collected by these activities is of use mainly to the forces in the field. It

updates their contingency planning for war and affects their state of readiness. There is some spin-off value to foreign policy intelligence needs from these activities, however. This is particularly true, for example, during negotiations for peace, for detente, and in the MBFR context. Data provided by some basically force-related systems becomes part of a larger data base used by analysts who must furnish background to negotiators.

(6) Special Programs

The cryptologic programs of the various agencies are coordinated by the National Security Agency (NSA). Each of the military service cryptologic agencies receives a budget to support a program which it plans in response in two sets of guidances -- one essentially related to support of the operational forces, and the other designed to satisfy "national" needs. The Director of NSA is responsible for technical direction and support to the service cryptologic agencies, for the tasking of those agencies for national level objectives, and for the production of cryptologic intelligence in support of national security and foreign policy objectives.

In general, other advanced technological collection programs are managed jointly by the DCI and the Secretary of Defense. Naturally there is concern for both substantive requirements and resource constraints.

Studies are now underway to determine the degree to which it is possible for intelligence-related technical collection systems to support similar but non-intelligence information needs elsewhere in the government. In the past some systems, such as the U-2 aircraft, have been used to support snowpack studies in the American west and to photograph hurricane, earthquake and flood damage for national emergency relief and economic planning purposes.

(7) Reports and Estimates

Virtually all of the major questions of concern to American foreign policy today involve political, economic,

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military and intelligence assessments to reflect this variety. In the past, the ultimate analytical medium was the National Intelligence Estimate. In recent years there have been a variety of other NSC-inspired forms which also required the best analysis. In an effort to account for this change and to make the intelligence process which I described earlier more responsive to policymaker information requirements, I have recently established a new group of "National Intelligence Officers" (NIOs) for specific subject areas. Their job will be to enlist all elements of the Intelligence Community in the development of the best possible assessments of the intelligence questions facing the government. I have instructed that Community reports and estimates be independent of policy pressure and objective in tone and content. They will also incorporate minority or adverse views when these exist.

I do not believe that agencies should handle research and analysis entirely apart from collection and operations, or in ignorance of the policy formulation and implementation process. If anything, the interdependence of policymaking, analysis, and collection should be increased so that collection and analysis are focused more precisely on user needs and profit more from user experience. Foreign policy and national security concerns arise in a dynamic environment -- one in which collectors and decisionmakers are active. To divorce analysis from this environment would reduce and slow its flow of information and minimize its utility. At the same time, control over the substantive content of analytical responses to policy questions should not be vested in the policymaker except with respect to substantive requirements and the timing and format of responses. From time to time analysts remind policymakers of this distinction.

#### (8) Emerging Needs

Any answer to this question must, of course, be given in classified testimony. It is clear, however, that the intelligence questions facing our nation in the 70s are different from those of the more extreme days of the Cold War. New needs are arising which require intelligence support

in the fields of economics, narcotics, and international terrorism. These new needs are reflected in the overall guidance being developed for the Community.

(9) Oversight and Accountability

The DCI is responsible in detail to the authority of four committees of the Congress -- the two Armed Services Committees and the two Appropriations Committees -- under the rules established in each House. In addition, he provides regular substantive briefings to a number of other committees. In the Executive Branch, he is responsible for substantive matters to the National Security Council and the President, and for budget and management matters to OMB and the President. He is responsive to the substantive requirements of the Secretaries of State, Defense, and other agencies with foreign intelligence interest, and the activities of the Intelligence Community are subject to their evaluation. All activities in which CIA and the rest of the Intelligence Community engage are subject to review in detail by the President's Foreign Intelligence Advisory Board.

As the Chairman of the Armed Services Committee said in 1949 when he reported to the Senate the Central Intelligence Agency Act,

*"Ours will perhaps be the only Government having a law providing for such an activity. Other governments simply appropriate a disguised sum of money, without any authority of law, to handle the matter through some government official. We are writing the whole law out... We are not doing what other countries do. We are throwing every possible democratic safeguard around it as we go along."*

In testimony during my confirmation hearings, I indicated that it is for the Congress to decide whether there should be legislative changes in the authorities over foreign intelligence activities. It is a persistent dilemma for the government to determine to what degree the public

should be informed about intelligence activities. The policy of the Intelligence Community is to be as forthcoming as possible while protecting the basic elements of secrecy which are necessary if we are to be effective.

(10) Controls

All intelligence operations stem from a variety of authorities. The NSC's "Forty Committee" controls foreign operations. By Presidential letter the Ambassador has overall authority over operations in the country to which he is posted. He is kept aware of operational activity in his country.

(11) Personnel

There are no cross-Community personnel procedures over which the DCI has control. The individual components of the Community establish their own professional criteria. In testimony at my confirmation hearings I included a report on CIA's recruitment activity (see pages 185-186). While improvements can be made, there are no special legislative needs at this time.

In answer to the second part of your question, let me say that I believe that compartmentation is not a serious restraint upon the exchange of ideas within the Intelligence Community. Usually "compartments" are used to protect sources and methods rather than facts themselves. Need-to-know is the guiding factor in the protection of information. Those who work on a problem at the highest level have ready access to information they need. They must only show that the kind of information which they seek is key to their analysis, and that their project will be used by a policymaking level sufficiently high to warrant the inclusion of compartmented intelligence.

(13) Overseas Establishment

Control and coordination of foreign intelligence activities overseas is not a serious problem. The Ambassador is charged by the President to direct and coordinate the activities and operations of all elements at his mission. He actively directs overt information collection and reporting activities. Subject to his authority, the senior CIA

representative in a foreign post is responsible for the coordination of other foreign intelligence activities there.

With very rare exception, close and effective relationships exist between all members of the country team. If there are problems which are particularly difficult to resolve in the field, they are worked out in Washington. The question of effectiveness in the field is under constant evaluation at the agency, Community, and user level. Coordination, however, is not a major problem with respect to the effectiveness of foreign intelligence activities.



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2025 M STREET, N.W.  
WASHINGTON, D.C. 20506

October 15, 1973

Mr. William J. Colby  
Director of Central Intelligence  
Headquarters, CIA  
McLean, Virginia 22101

Dear Bill:

As Congressman Zablocki and Dean Wilcox indicated in their recent conversation with you, the Commission is looking forward to meeting with you in November. In preparing for the meeting, the Commission believes it would be especially useful to have a statement setting forth the views of the intelligence community which the members can study in advance and thus make the discussion more profitable. We hope that you will be able to assemble such a statement by the first week in November to permit its distribution to Commission members for the meeting on November 19.

To be most helpful, the statement should address all of the major elements of the national intelligence effort in support of the conduct of foreign policy. For this purpose, it is assumed -- and the Commission would like confirmation or correction of the assumption -- that this effort involves the political, economic, sociological, scientific and military affairs of foreign states, organizations and individuals and that it consists essentially of three principal elements:

- (a) the collection, evaluation and dissemination of information from the following sources:
  - open published materials
  - overt reporting
  - clandestine reporting
  - communications and electronic penetration
  - advanced technological systems
- (b) the preparation through research and analysis, and the dissemination, of studies, reports and estimates
- (c) covert action in support of policy decisions

For each of these elements, the Commission requests an outline of the present organization and procedures particularly in

respect to coordination among agencies, an identification of the principal obstacles to improved performance, and recommendations for appropriate action.

We hope the statement, in addressing the foregoing matters, will touch upon the following questions in addition to any others which you consider to be of importance:

- (1) Authority. Has the National Security Act of 1947 proved to be sufficiently sound as a basic authority for the Director of Central Intelligence to fulfill his role both with respect to the coordination of intelligence for national security and for the management of the Central Intelligence Agency? In particular,
  - a. what are the practical effects of subordination to the National Security Council rather than directly to the President or a department of the government? Should the system be altered?
  - b. can the responsibilities "to correlate and evaluate intelligence relating to the national security" be adequately delineated from the responsibilities of departments and other agencies "to collect, evaluate, correlate and disseminate departmental intelligence"? (Section 102(d)(3))
  - c. has the responsibility "to protect intelligence sources" proved workable and useful? (Section 102(d)(3))
  - d. is the mandate to perform "such additional services of common concern" (Section 102(d)(4)) adequate to the needs of the intelligence community and the government as a whole? Is the mandate to perform "such other functions and duties" (Section 102(d)(5)) too broad and open-ended?
  - e. has the authority to inspect intelligence of the departments and agencies (Section 102(e)) proved adequate and useful?

- (2) Requirements. Who are the principal users of intelligence in support of the conduct of foreign policy? What is the present organization and procedure for the preparation and updating of their requirements to guide the intelligence effort? Are such requirements adequate and what recommendations for improvement are suggested? How are requirements handled in crisis situations, and how can that process be improved?
- (3) Performance and Resources. In the fulfillment of these requirements, is the most effective and efficient use made of the resources of the intelligence community? What is the basis for arriving at the optimum level of such resources and their distribution within the community in order to give the most effective support? What resource requirements are anticipated for the future?
- (4) Evaluation. How effective is the method of evaluating the performance of the intelligence effort in fulfilling the requirements in support of the conduct of foreign policy? What changes are recommended in this regard?
- (5) Other Intelligence Activities. What is the relationship of intelligence activities in support of military-tactical, counterintelligence, or other purposes to the intelligence activities in support of foreign policy?
- (6) Special Programs. What is the institutional mechanism for coordinating cryptological programs among the several agencies? For managing the advanced technological collection programs? How does this tie in with other government programs using similarly advanced technological systems? Is there a way to economize in this field and perhaps even produce a more effective government-wide effort?
- (7) Reports and Estimates. What is the need of the government for coordinated reports and estimates? How are such reports and estimates now produced?

What means are employed to assure that the analyses are forthright, objective, useful to policy makers at all levels of the government, and as free as possible of institutional biases? Should the research and analytical functions be handled in agencies other than those responsible for collection and operations? For policy formulation and implementation?

- (8) Emerging Needs. How is the mission of the intelligence community changing in the 1970s? What steps are being taken to adapt the intelligence effort to new demands for support in such fields as international trade, energy matters, the environment, and narcotics control?
- (9) Oversight and Accountability. What are the institutional controls through which the Executive Branch and Congress oversee activities of the intelligence community? Are they effective in making the intelligence community realistically responsive to government authorities? Does the public have a right to be better informed about the intelligence business; what improvements should be made in the process of accountability of intelligence activities to the public?
- (10) Controls. In respect to the activities and operations of intelligence which may impinge upon the conduct of foreign policy or in respect to operations designed to support specific policies, what is the system of guidance and control and is it fully adequate? What is done to assure that approving officials are fully aware of the possible consequences of a given action? What improvements in the system are recommended?
- (11) Personnel. Are the personnel procedures for CIA and other agencies in the intelligence community soundly based to recruit and sustain the professional corps necessary for the best intelligence support of the conduct of foreign policy? What steps are being taken throughout the community to mitigate the adverse effects of compartmentalization arising from security requirements in order to achieve greater cross-fertilization of ideas and personnel?

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- (12) Budgets. To what extent does the DCI have the authority to determine or otherwise oversee the budget and manpower needs of the various agencies in the intelligence community? Should he have greater authority in this regard? Are the present budget resources of the several components of the intelligence community adequate, excessive or insufficient for their contributions to the intelligence effort in support of the conduct of foreign policy?
- (13) Overseas Establishment. What are the problems of control, coordination, and communications in overseas establishments as they pertain to intelligence? How can these establishments be made more effective and efficient?

The Commission is aware that a comprehensive response to these questions could lead to a most exhaustive study and a very lengthy report. We are hopeful, however, that while giving full attention to the important implications of the questions, you can in your report identify and emphasize the most important elements in our inquiry.

A copy of this letter is going to the Secretary of State, the Secretary of Defense and the President's Special Assistant for National Security Affairs, as members of the National Security Council, with the request that they offer whatever comments they can on the foregoing questions to assist the Commission in its study.

The Commission is most appreciative of your personal assistance and that of other components of the intelligence community in the fulfillment of our tasks.

Cordially yours,



Robert D. Murphy  
Chairman

cc: The Secretary of State  
The Secretary of Defense  
The President's Special Assistant  
for National Security Affairs

TAB

MANDATE

The Foreign Relations Authorization Act of 1972 (P.L. 92-352, July 13, 1972) established a joint Presidential-Congressional study commission to submit to the Congress and the President findings and recommendations "to provide a more effective system for the formulation and implementation of the Nation's foreign policy."

In describing the duties of the Commission the law states that "the Commission shall study and investigate the organization, methods of operation, and powers of all departments, agencies, independent establishments, and instrumentalities of the United States Government participating in the formulation and implementation of United States foreign policy." In carrying out its responsibilities, the Commission may make recommendations with respect to the reorganization of the departments and agencies, more effective arrangements between executive branch and Congress, improved procedures among departments and agencies, the abolition of services, activities and functions not necessary to the efficient conduct of foreign policy, and "other measures to promote peace, economy, efficiency and improved administration of foreign policy."

The report of the Commission, which is to be submitted to the President and the Congress by June 30, 1975, may include "proposed constitutional amendments, legislation, and administrative action considered appropriate in carrying out its duties." The Commission, in performing its responsibilities, is authorized to hold hearings, subpoena witnesses and secure directly information from any executive department or agency.

COMMISSION MEMBERS

The Commission is composed of twelve members, four each appointed by the President of the Senate, the Speaker of the House, and the President. The members are:

THE HONORABLE ROBERT D. MURPHY - Chairman  
Corning Glass International  
New York, New York

THE HONORABLE JAMES B. PEARSON - Vice Chairman  
United States Senate



DR. DAVID M. ABSHIRE

Chairman, Center of Strategic & International Studies  
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Georgetown University

MRS. ANNE ARMSTRONG

Counsellor to the President  
White House

THE HONORABLE WILLIAM J. CASEY

Ex-Im Bank

MRS. CHARLES W. ENGLEHARD, JR.

Far Hills, New Jersey

MR. AREND D. LUBBERS

President, Grand Valley State College  
Allendale, Michigan

MR. FRANK C. P. McGLINN

Executive Vice President  
Fidelity Bank  
Philadelphia, Pennsylvania

THE HONORABLE Peter Frelinghuysen  
House of Representatives

THE HONORABLE MIKE MANSFIELD

United States Senate

DR. STANLEY P. WAGNER

President, East Central State College  
Ada, Oklahoma

THE HONORABLE CLEMENT J. ZABLOCKI

House of Representatives

#### COMMISSION STAFF

FRANCIS O. WILCOX is the Executive Director of the Commission and FISHER HOWE is the Deputy Executive Director. Former Senator WILLIAM B. SPONG, JR., is General Counsel to the Commission. The Commission offices are located at 2025 M Street, N. W.; Washington, D.C. 20536. Telephone (202) 254-9350.

June 1, 1973

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Murphy Commission Subcommittees:

International Economics: Senator James Pearson, Chairman  
William J. Casey  
Mrs. Charles Englehard, Jr.

Congress: Senator Mike Mansfield, Chairman  
Mrs. Anne Armstrong  
Dr. Stanley P. Wagner  
Representative Clement Zablocki

Public Policy: Representative Zablocki, Chairman  
David M. Abshire  
Frank C.P. McGlinn

National Security and Intelligence: Ambassador Robert Murphy, Chairman  
Representative Peter Frelinghuysen  
Arend D. Lubbers  
David M. Abshire  
William J. Casey

#4 Authority for the Conduct and Management of Foreign Intelligence. Will discuss the constitutional and statutory base for foreign intelligence with explicit reference to the National Security Act of 1947, the CIA Act of 1949, and the NSCIDs. Will suggest alternative approaches and discuss the pros and cons of recommending statutory reforms.

Status: Draft nearing completion, due 15 October.

Author: Dr. William R. Harris, RAND Corporation, Santa Monica. Former consultant to Andy Marshall on the NSC Staff, participant in preparing the Lindsay Report.

#5 Intelligence Resource Management. Paper discusses not only the efficient allocation of resources but also the capacity of the DCI and others to make appropriate decisions and to manage resources appropriated to other agencies. Will focus on the roles of the Secretary of Defense, the DCI, OMB, IRAC, the Intelligence Community Staff, PFIAB, and the Congress. Will discuss alternative techniques for the budgetary review of intelligence activities.

Status: Draft completed.

Author: Robert Macy, with the Bureau of the Budget until 1962 as CIA auditor. Since that time has worked as a consultant to a number of government agencies and with the UN both domestically and abroad.

#6 Clandestine Operations and Covert Action. To discuss the pros and cons of maintaining a capability for covert action and the criteria that ought to govern its use. Will address problems of command and control inherent in highly compartmented operations, and will examine carefully the review process of the 40 Committee and other oversight groups.

Status: Draft due on October 15.

Author: Taylor G. Belcher, former US Ambassador to Cyprus and Peru. In addition, Chester Cooper, of the Council of Foreign Relations, will do a think piece on the same topic.

All Source Study:  Project Director

STATINTL

A limited access report of analysis, without recommendation, of past studies on the Intelligence Community.

Status: Draft due on 1 November.

Author:  former CIA officer, currently a consultant with INR.  is a former CIA officer who has served on the staff of former Vice President Agnew and is currently the Administrative Assistant to Congressman Peter Frelinghuysen.

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# Anti-destabilization

By John D. Marks

WASHINGTON—Now that President Ford has publicly asserted that the United States has a right to "destabilize" foreign governments, other countries might consider whether to permit entry to America's agents of subversion, operatives of the Central Intelligence Agency.

These people, after all, engage in covert activities that the Director of Central Intelligence, William E. Colby, recently admitted would be crimes if committed in this country.

Why should any sovereign nation stand for that sort of thing, and, more important, what can a country do to protect itself from C.I.A. attack?

Foreign governments could inform the State Department that employees of the C.I.A. and other United States spy agencies are not welcome and must be withdrawn immediately if the United States wishes to continue diplomatic relations.

Admittedly, Britain, Canada and South Africa would probably not expel the C.I.A. because the agency operates in these countries mainly to exchange intelligence data and maintain close liaison.

Similarly, the Soviet Union almost certainly would not want to expel C.I.A. operatives, since the United States would surely retaliate with similar action, breaking an unwritten rule that both powers have a right to spy on the other.

But allied and third-world countries that have no wish to infiltrate our Government or to "destabilize" our democratic institutions—as the C.I.A. did to Chile's—might declare themselves espionage-free zones. They could make clear that their refusal to allow the operations of the C.I.A. (or K.G.B., or any other foreign intelligence service) should not be considered an unfriendly act.

Since all C.I.A. personnel are abroad on false pretenses, finding them in order to expel them would be a potential problem but one greatly simplified by the C.I.A.'s standard procedure of sending most of its operatives abroad as bogus State Department officers.

Over 25 per cent of the people who are listed as working for the department overseas are actually with the C.I.A. And by cross-checking two unclassified State Department publications, the Foreign Service List and the Biographic Register, most of the C.I.A. operatives, normally listed as Foreign Service Reserve Officers, can be distinguished from America's real diplomats, the Foreign Service Officers.

While there are Reserve Officers who do not work for the C.I.A. and who are conspicuous by incomplete biographical data, which usually includes for service in such vague-

sounding jobs as "political analyst, Department of the Army."

Identifying American military-intelligence personnel abroad is even easier. In countries where there are no United States forces stationed, most of them are simply called defense attachés.

C.I.A. operatives under "deep cover"—primarily as American businessmen but also as newsmen, missionaries, and students—would be more difficult to spot than their "diplomatic" brethren, but a government could handle many of these by announcing that any corporation knowingly concealing a C.I.A. man would be subject to expropriation.

Certainly not all United States intelligence operatives could be discovered, but such tactics could seriously disrupt C.I.A. operations. Nevertheless, even the most determined and clever government could probably not stop the flow of secret C.I.A. funds of the type that President Ford has admitted were secretly paid to Chilean Opposition leaders and newspapers.

As long as there are citizens willing to accept the laundered C.I.A. funds, the agency will contrive ways to get money to them.

For example, in Greece the C.I.A. has over the years recruited thousands of political, military, police, labor, news media, and academic figures. Now as Greece restores democracy and moves away from America's all-encompassing embrace, there is real fear in the Greek Government that the United States will act to stop what Washington policymakers perceive as a leftward drift.

While the Greek Government could probably identify and expel most of the C.I.A. operatives—60, according to one newspaper report—the many Greeks already in the C.I.A.'s employ would remain as potential fifth columnists to which the agency could provide assistance.

Perhaps the way for Greece to rid herself of the C.I.A.'s pervasive influence would be to declare a general amnesty for all citizens who are with the agency. If genuine forgiveness were promised in return for immediate cooperation, and stiff penalties promised for those convicted of staying on the C.I.A. payroll after the amnesty period, enough of the C.I.A.'s Greek contacts might provide sufficient information to enable the Government to start unraveling the agency's extensive agent network.

The point is that foreign governments do not need to stand by idly while the C.I.A. attempts to "destabilize" them.

John D. Marks is an Associate of the in Washington and co-author, with Victor Marchetti, of "The C.I.A. and the Cult of Intelligence."

# How to Spot a Spook

by John Marks

*Several times in the last few years, this magazine has suggested that the quickest single way to improve the conduct of American foreign policy would be to get rid of the covert agents and clandestine operators in the CIA. In the spirit of practicing what we preach, we present the following article, which tells how to identify a great number of the Agency's "secret" operators. Our purpose is to hasten the day when our intelligence organizations concentrate on their real work—collecting and analyzing information from open sources—and to cut the ground away from the James Bonds and the Gordon Liddys of the world before they get us all in any more trouble.*

Both the Soviet and American intelligence establishments seem to share the obsession that the other side is always trying to bug them. Since the other side is, in fact, usually trying, our technicians and their technicians are constantly sweeping military installations and embassies to make sure no enemy, real or imagined, has succeeded. One night about ten years ago, a State Department security officer, prowling through the American embassy in Santiago, Chile, in search of communist microphones, found a listening device carefully hidden in the office of a senior "political officer." The security man,

*John Marks is an associate of the Center for National Security Studies and co-author of The CIA and the Cult of Intelligence.*

along with everyone else in the embassy, knew that this particular "political officer" was actually the Central Intelligence Agency's "station chief," or principal operative in Chile. Bugging his office would have indeed been a major coup for the opposition. Triumphantly, the security man ripped the microphone out of the wall—only to discover later that it had been installed by the CIA station chief himself.

The reason the CIA office was located in the embassy—as it is in most of the other countries in the world—is that by presidential order the State Department is responsible for hiding and housing the CIA. Like the intelligence services of most other countries, the CIA has been unwilling to set up foreign offices under its own name, so American embassies—and, less frequently, military bases—provide the needed cover. State confers respectability on the Agency's operatives, dressing them up with the same titles and calling cards that give legitimate diplomats entree into foreign government circles. Protected by diplomatic immunity, the operatives recruit local officials as CIA agents to supply secret intelligence and, especially in the Third World, to help in the Agency's manipulation of a country's internal affairs.

The CIA moves its men off the diplomatic lists only in Germany, Japan, and other countries where large numbers of American soldiers are



stationed. In those countries, the CIA's command post is still in the U.S. embassy, but most of the CIA personnel are under military cover. With nearly 500,000 U.S. troops scattered around the world, the CIA "units" buried among them do not attract undue attention.

In contrast, it is difficult for the CIA to dwell inconspicuously within the American diplomatic corps, since more than a quarter of the 5,435 employees who purportedly work for State overseas are actually with the CIA. In places such as Argentina, Bolivia, Burma, and Guyana, where the Agency has special interests and projects, there are about as many CIA operatives under cover of substantive embassy jobs as there are legitimate State employees. The CIA also places smaller contingents in the ranks of other U.S. government agencies which operate overseas, particularly AID's police training program in Latin America.

What is surprising is that the CIA even bothers to camouflage its agents, since they are still easily identifiable. Let us see why the embassy cover is so transparent:

■ The CIA usually has a separate set of offices in the embassy, often with an exotic-looking cipher lock on the outside door. In Madrid, for example, a State Department source reports that the Agency occupied the whole sixth floor of the embassy. About 30 people worked there; half were disguised as "Air Force personnel" and half as State "political officers." The source says that all the local Spanish employees knew who worked on what floor of the embassy and that visitors could figure out the same thing.

■ CIA personnel usually stick together. When they go to lunch or to a cocktail party or meet a plane from Washington, they are much more likely to go with each other than with legitimate diplomats. Once you have identified one, you can quickly figure out the rest.

■ The CIA has a different health

insurance plan from the State Department. The premium records, which are unclassified and usually available to local employees, are a dead giveaway.

■ The Agency operative is taught early in training that loud background sounds interfere with bugging. You can be pretty sure the CIA man in the embassy is the one who leaves his radio on all the time.

■ Ironically, despite the State Department's total refusal to comment on anything concerning the CIA, the Department regularly publishes two documents, the *Foreign Service List* and the *Biographic Register*, which, when cross-checked, yield the names of most CIA operatives under embassy cover. Here is how it works:

America's real diplomats have insisted on one thing in dealing with the CIA: that the corps of Foreign Service Officers (FSO) remain pure. Although there are rumors of exceptions, CIA personnel abroad are always given the cover rank of Foreign Service Reserve (FSR) or Staff (FSS) officers—not FSO. Of course, there are some legitimate officials from the State Department, AID, and USIA who hold FSR and FSS ratings, so care must be taken to avoid confusing these people with the spooks.

To winnow out the spooks, you start by looking up in the *Foreign Service List* the country in question, for example, China. The letters in the third column from the left signify the man or woman's personnel status and the number denotes his or her rank. On the China list, David Bruce is an "R-1" or Reserve Officer of class 1, the highest rank. John Holdridge is a regular Foreign Service Officer (FSO) of the same grade, and secretary Barbara Brooks is a Staff Officer, class 4.

#### PEKING (U.S. LIAISON OFFICE) (LO)

Bruce David K.E.	chief USLO	R-1	5-73
Holdridge John H.	dep chief USLO	O-1	5-73
Jenkins Alfred Les	dep chief USLO	R-1	
Brooks Barbara A.	sec	S-4	5-73
McKinley Brunson	spec asst	O-6	5-73
Zaelit Lucille	sec	S-5	5-73
Anderson Donald M.	pol off	O-4	6-73

Hunt Janice E.....	sec	S-8	12-73
Lilley James R.....	pol off	R-3	
Pascoe B Lynn.....	pol off	O-5	7-73
Horowitz Herbert Eugene.....	econ/cml off	O-3	6-73
Morin Annabelle C.....	sec	S-7	7-73
Rope William Frederick.....	econ/cml off	O-4	4-73
Blackburn Robert R Jr.....	adm off	O-3	4-73
Herrera Delia L.....	sec	S-6	5-73
Lambert William F.....	coms/rec off	R-6	2-74
Lucas Robert T.....	coms/rec off	S-2	7-73
Morin Emile F.....	gen ser off	O-6	3-72
Peterson Robert O.....	coms/rec off	R-6	7-73
Riley Albert D.....	coms/rec off	S-5	5-73

Now Holdridge almost certainly can be ruled out as an operative, simply because he is an FSO. Not much can be told one way or the other about FSS Brooks because, as is the case with most secretaries, the State Department does not publish much information about her. David Bruce might be suspect because of his "R" status, but a quick glance at the *Biographic Register*, which gives a brief curriculum vitae of all State Department personnel, shows him to be one of the high-level political appointees who have "R" status because they are not members of the regular Foreign Service. Similarly, the *Register* report on FSR Jenkins shows that he had a long career as an FSO before taking on the State Department's special assignment in Peking as an FSR:

Bruce, David KE-b Md 2/21/98, m (Evangeline Bell). Princeton U AB 19. Mem Md bar. US Army 17-19, 42-45 coloverseas. PRIV EXPR priv law practice 21-26, mem State legis 24-26, 39-42, with bank-priv bus 28-40, chief rep Am Red Cross (England) 40-41. GOVTEXPER with Off Strategic Sers 41-45, asst sec of Com 47-48. ECA Paris R-1 chief of mission 5/48. STATE AEP to France 5/49. Dept under sec of state 2/52, consult to sec of state 1/53. Paris R-1 pol off-US observer to Interim Comm of EDC, also US repto European Coal-Steel Community (Luxembourg) 2/53. Dept consult to sec of state 1/55. Bonn AEP to Germany 3/57-11/59. London AEP to Great Britain 2/61-3/69. Dept R-1 pers rep of Pres with pers rank amb to hd US del at Paris meetings on Viet-Nam 7/70-4/71. Peking chief liaison off 3/73.

Jenkins, Alfred leSesne-b Ga 9/14/16, m. Emory U AB 38, Duke U MA 46. US Army 42-46 1st lt. PRIV EXPR prin-supt pub schs 40-42. STATE Dept FSO unclass 6/46. Peiping Chin lang-area trainee 9/46, O-6 11/46. Tientsin pol off 7/48, O-5 4/49. Hong Kong chief pol sect 7/49. Taipei pol off 7/50, O-4 6/51. Dept 3/52. O-3 9/54. Jidda couns, dep chief mission 2/55. Dept det Nat War Coll 8/57, O-2 2/58, dep dir Off of SE Asian Aff 6/58, reg plan ad Bu of Far E Aff 8/59. Stockholm

couns, dep chief mission 10/61, cons gen 3/62, O-1 3/63. Dept FS insp 8/65, det Nat Security Council 7/66, FS insp 1/69, dir Off of Asian Communist Aff 7/70, superior honoraward 71, dir for People's Rep of China, Mongolia, Hong Kong-Macao aff 2/73. Peking dep chief liaison off 4/73. Lang Ger. (w-Martha Lipplatt).

Note that there are no gaping holes in their career records, nor did either of these men serve long tours with nameless Pentagon agencies, nor did they regularly change their status from "R" to "S" to "GS" (civil service).

Now, for purposes of comparison, examine the record of the CIA's man in Peking, a "political officer" named James R. Lilley:

Lilley, James R-b China Am parents 1/15/28, m. Yale U BA 51. US Army 46-47. GOVT EXPR anal Dept of Army 51-58. STATE Manila R-6 7/58. Dept 10/60, Phnom Penh 9/61, R-5 3/63. Bangkok 4/63. Dept 8/64. Vientiane pol off 6/65. R-4 5/66, S-2 4/68. Hong Kong 5/68, R-4 5/69. Dept 7/70, GS-15 ign aff off 4/71, R-4 det lang trng FSI 7/72-4/73. Lang Fr, Rom. (w-Sally Booth).

The *Foreign Service List* provides another clue, in the form of diplomats' official assignments. Of all the jobs real State Department representatives perform, political reporting is generally considered to be the most important. Although *genuine* FSRs frequently hold administrative and consular slots, they are almost never given the important political jobs. So where an FSR *does* appear in the listing with a political job, it is most likely that the CIA is using the position for cover. There is an exception to this rule: a comparatively few minority-group members who have been brought into the Foreign Service as Reserve Officers under a special program. They are found exclusively in the junior ranks, and their biographic data is complete in the way the CIA people's is not.

Finally there is another almost certain tip-off. If an agent is listed in the *Biographic Register* as having been an "analyst" for the Department of the Army (or Navy or Air Force), you can bet that he or she is really working for the CIA. A search of



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hundreds of names found no legitimate State Department personnel listed as ever having held such a job.

In an embassy like the one in Santo Domingo, the spooks in the political section outnumber the real FSOs by at least seven to three:

## Political Section

Beyer Joe	pol off	R-5	7-72
Brugger Frederick A.	pol off	R-7	9-72
Bumpus James N.	pol off	O-4	7-72
Chafin Gary E.	pol off	O-6	8-73
Clayton Thomas A.	pol off	R-3	5-71
Dwiggins Joan H.	pol off	R-7	3-72
Fambrini Robert L.	pol off	S-2	6-73
Greig David N Jr.	pol off	R-5	8-71
Guell Janet E.	sec	S-8	12-73
Markoff Stephanie M.	sec	S-8	6-73
Merriam Geraldine C.	clk-typist	S-9	2-73
Mooney Robert C.	pol off	R-6	8-72
Morris Margaret A.	clk-typist	S10	12-73
Pascoe Dorothy L.	sec	S-7	2-74
Ryan Donald G.	pol off	R-8	8-73
Williams Albert N.	pol off	O-3	7-73

While Donald Ryan is an "R" in the political section, there is not sufficient data published about him to verify his status.

It was by studying these documents that I learned that the CIA has sent an operative to Peking. For confirmation, I called the State Department's ranking China expert, Acting Assistant Secretary of State Arthur Hummel. After I identified myself as a reporter working on a magazine article and explained where I had gotten my information, Hummel shouted, "I know what you're up to and I don't want to contribute. Thank you very much!" and slammed down the phone.

Another State official confirmed that the decision to send an operative to Peking was made in early 1973, but declared that making public the operative's existence could "jeopardize" Chinese-American relations. Neither this official nor any of his colleagues seemed willing to consider the notion that the U.S. government was under no obligation to assign a CIA man there—or anywhere else for that matter. The first American mission to China since 1949 certainly could have been staffed exclusively with real diplomats if concern about damaging relations were so high. To

have excluded the Agency from Peking, however, would have gone against a basic axiom of the post-World War II foreign policy establishment: the CIA follows the flag into American embassies.

The Chinese government is presumably clever enough to identify the operative by sifting through the public documents available. In fact his arrival may well have been cleared with the Chinese, who probably wanted reciprocal privileges for their secret service in Washington. Such are the arrangements the world's spooks are so fond of working out with each other—the Soviet KGB and the CIA even exchange names of intelligence analysts assigned to the other's capital.

#### Sacrificing 'State'

Much to the alarm of a few high State Department officials, the proportion of CIA to State personnel abroad has been steadily rising in recent years. The precise figures are zealously guarded, but several State sources confirm the trend. They cite as the main reason for this tilt toward the CIA a series of government-wide cutbacks that have hit State proportionately harder than the CIA. What troubles State is not, as one career diplomat put it, "the principle" that State should provide the CIA with cover. That is unquestioned, he says. Rather, most legitimate diplomats do not like being a minority within their own profession or having the rest of the world confuse them with the CIA's dirty tricksters. They generally regard themselves as working at a higher calling.

While the State Department has been comparatively honest in accepting the personnel cuts ordered by the Johnson and Nixon administrations, two sources familiar with the CIA budget report that the Agency has done everything possible to escape the reductions. Traditionally, when outsiders—even Presidents—have tried to meddle with the Agency's personnel allotment, the CIA has resisted on "national security" grounds. And



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when that argument failed, the CIA resorted to bureaucratic ruses: cutting out a job and then replacing the person eliminated with a "contract" or "local" employee, who would not show up on the personnel roster; or sending home a clandestine support officer—a specialist in things like renting "safe houses," "laundering" money, and installing phone taps—and then having the same work done by experts sent out from Washington on "temporary duty."

Just this spring, the State Department took official, if secret, notice of its declining presence overseas compared to the CIA when Secretary Henry Kissinger authorized a high-level study of State-CIA staffing. The Department's top administrator, L. Dean Brown, who had urged the study be made in the first place, gave the job to Malcolm Toon, a career diplomat serving as U.S. ambassador to Yugoslavia. Toon returned to Washington to compile the top-secret report.

Asking not to be named and

Not only does the State Department provide the CIA with cover, but the Senate—and especially its Foreign Relations Committee—encourages the current practice of sending over 25 per cent of our "diplomatic" corps abroad under false pretenses. Every year the Foreign Relations Committee routinely approves and sends to the full Senate for its advice and consent lists of "Foreign Service Reserve Officers to be consular officers and secretaries in the Diplomatic Service of the United States of America." In 1973, of the 121 names submitted by the State Department, more than 70 were CIA operatives. According to a knowledgeable source, the committee is informally told the number of CIA people on the lists but "not who they are." No senator in memory has publicly objected to being an accomplice to this cover-building for the CIA.

refusing to provide the specific figures, a source close to Kissinger says that Toon's report calls for a substantial reduction in the number of CIA operatives abroad under State cover. The source adds that Kissinger has not made up his mind on the issue.

Kissinger has always acted very carefully where the CIA is concerned. One of his former aides notes that the Secretary has regularly treated the Agency with great deference at government meetings although he has often been privately scornful of it afterwards. In any case, Kissinger is unquestionably a believer in the need for the CIA to intervene covertly in other countries' internal affairs—he was the prime mover behind the Agency's work against Salvador Allende in Chile. The question of how much cover State should provide the CIA, however, is chiefly a bureaucratic one, and is not basic to Kissinger's foreign policy. The Secretary therefore will probably not take a definite position until he sees how much opposition the CIA will be able to stir up in the White House and in the congressional subcommittees that supposedly oversee the Agency.

The CIA has lost no time in launching its counteroffensive. At a July 19 off-the-record session with key Democratic congressional aides, Carl Duckett, the CIA's Deputy Director for Intelligence, complained about the reductions recommended by the Toon report. According to a source who was present, Duckett said that even without further embassy cuts, the CIA now doesn't have enough people overseas.

CIA officials must be especially concerned about Toon's recommendations, since in countries where there are no U.S. military bases, the only alternative to embassy cover is "deep," or non-official, cover. American corporations operating overseas have long cooperated in making jobs available to the CIA and would probably continue to do so. Also, the Agency would probably have to make



more use of smaller firms where fewer people would know of the clandestine connection. Two examples of this type are:

\* Robert Mullen and Company, the Washington-based public relations concern for which E. Howard Hunt worked after he left the CIA and before the break-in at Democratic National Headquarters. Mullen provided CIA operatives with cover in Stockholm, Mexico City, and Singapore, and in 1971 set up a subsidiary in cooperation with the CIA called Interprogres, Ltd. According to a secret Agency document released with the House Judiciary Committee's impeachment evidence, "At least two [CIA] overseas assets have tangential tasks of promoting the acceptance of this company as a Mullen subsidiary."

\* Psychological Assessment Associates, Inc., a Washington psychological consulting firm specializing in behavioral research and analysis. By the admission of its president John Gittinger, most of the company's business since it was founded in 1957 by three ex-CIA psychologists has come from Agency contracts. The firm had two "representatives" in Hong Kong, at least until June of this year.

Unless their cover is blown, companies of this sort and operatives who work for them cannot be linked to the U.S. government. But the Agency has learned over the years that it is much more difficult and expensive to set up an operative as a businessman (or as a missionary or newsman) than to put him in an embassy. As a "private" citizen, the operative is not automatically exposed to the host country's key officials and to foreign diplomats, nor does he have direct access to the CIA communications and support facilities which are normally housed in embassies. Moreover, as an ex-CIA official explains, "The deep cover guy has no mobility. He doesn't have the right passport. He is subject to local laws and has to pay local taxes. If you try to put him in an influential business job, you've got to go through all the arrangements with

the company."

### Who Needs Gumshoes?

Everything argues for having the intelligence agent in the embassy—everything, that is except the need to keep his existence secret. The question then becomes whether it is really that important to keep his existence secret—which, in turn, depends on how important his clandestine activities are.

Could any rational person, after surveying the history of the last 20 years, from Guatemala to Cuba to Vietnam—and now Chile—contend that the CIA's clandestine activities have yielded anything but a steady stream of disaster? The time has come to abolish them. Most of the military and economic intelligence we need we can get from our satellites and sensors (which already provide nearly all our information about Russia's nuclear weaponry) and from reading the newspapers and the superabundant files of open reports. As for political intelligence—which is actually an assessment of the intentions of foreign leaders—we don't really need this kind of information from Third World countries unless we intend to muck about in their internal affairs. With the Soviet Union or China—countries powerful enough to really threaten our national security—timely political intelligence could be a great help. But for the past 25 years we have relied on open sources and machine-collected intelligence because our agents have proven incapable of penetrating these closed societies. There is not enough practical benefit gained from the CIA's espionage activities to compensate for our nation's moral and legal liability in maintaining thousands of highly trained bribers, subverters, and burglars overseas as "representatives" of our government. The problem of getting good, accurate, reliable information from abroad is a complicated one, beyond the scope of this article, but, to paraphrase Mae West, covert has nothing to do with it. ■

TAB

JAN 1972

## THE CIA AND DECISION-MAKING

*By Chester L. Cooper*

"The most fundamental method of work . . . is to determine our working policies according to the actual conditions. When we study the causes of the mistakes we have made, we find that they all arose because we departed from the actual situation . . . and were subjective in determining our working policies."—"The Thoughts of Mao Tse-tung."

IN bucolic McLean, Virginia, screened by trees and surrounded by a high fence, squats a vast expanse of concrete and glass known familiarly as the "Pickle Factory," and more formally as "Headquarters, Central Intelligence Agency." Chiselled into the marble which is the only relieving feature of the building's sterile main entrance are the words, "The Truth Shall Make You Free." The quotation from St. John was personally chosen for the new building by Allen W. Dulles over the objection of several subordinates who felt that the Agency, then still reeling from the Bay of Pigs débâcle, should adopt a somewhat less lofty motto. (In those dark days of late 1961, some suggested that a more appropriate choice would be "Look Before You Leap.") But Dulles had a deeper sense of history than most. Although he was a casualty of the Bay of Pigs and never sat in the Director's office with its view over the Potomac, he left a permanent mark not only on the Agency which he had fashioned but on its building which he had planned.

Allen Dulles was famous among many and notorious among some for his consummate skill as an intelligence operative ("spook" in current parlance), but one of his greatest contributions in nurturing the frail arrangements he helped to create to provide intelligence support to Washington's top-level foreign-policy-makers.

Harry Truman, whose Administration gave birth to both the National Security Council and the Central Intelligence Agency, recalls that, "Each time the National Security Council is about to consider a certain policy—let us say a policy having to do with Southeast Asia—it immediately calls upon the CIA to present an estimate of the effects such a policy is likely to have. . . ." President Truman painted a somewhat more cozy relationship between the NSC and the CIA than probably existed during, and certainly since, his Administration. None the less, it is fair to say that the intelligence community, and especially the CIA, played an important advisory role in high-level policy deliberations during the 1950s and early 1960s.

To provide the most informed intelligence judgments on the effects a contemplated policy might have on American national security interests, a group especially tailored for the task was organized in 1950 within the CIA. While this step would probably have been taken sooner or later, the communist victory



in China, the Korean War and growing East-West tensions stimulated the Truman administration's interest in obtaining carefully prepared intelligence assessments and projections. The Office of National Estimates (ONE) was headed initially by Professor William Langer, eminent diplomatic historian, leading authority on the American duck and master of prose-style. Under his brief stewardship he established guidelines for crisp, objective assessments that have been maintained for two decades.

Since its inception, the Office of National Estimates has maintained its independence within the hierarchy of the CIA, within the intelligence community, and within the national security and foreign policy elements of the government. Each National Intelligence Estimate is written after due consideration of contributions submitted by intelligence analysts both within and outside the Agency, but the final wording bears the unmistakable stamp of ONE's style of composition and analysis.

Estimates, about 50 a year, are written on a variety of subjects relevant to situation or policy considerations affecting the national security interests of the United States—from such elaborate, highly technical examinations as Chinese communist nuclear capabilities as they may develop over the next several years, to more speculative judgments about, say, the probable course of Japanese-Soviet relations in the light of evolving American foreign and economic policy.

The estimates are, by their very nature, a projection into the future: "What will be the effects of . . .?" "What are the probable developments in . . .?" "What are the intentions of . . .?" "What are the future military capabilities of . . .?" When *Pravda* has been scanned, the road-watchers' reports from Laos checked, the economic research completed, Pham van Dong's recent speeches dissected, radar signals examined, satellite observations analyzed, and embassy cables read, the estimators set about their task. What emerges reflects a mass of distilled information, a painstaking search for the *mot just* and an assiduous effort to coordinate the views of all appropriate elements of the intelligence community. And, when all is said and done, what emerges is an opinion, a judgment. But it is likely to be the best-informed and most objective view the decision-maker can get.

The ten men on the National Estimates Board and the twenty or so on the National Estimates Staff (the Board and Staff make up the Office of National Estimates) have virtually unlimited access to classified and unclassified information concerning the political, military and economic situations of foreign countries. Their access to high-level White House, Defense or State policy thinking is much more limited; the fear of leaks which has pervaded the Kennedy, Johnson and Nixon administrations has tended to seal off even such elite intelligence groups as the Office of National Estimates from advance knowledge of sensitive "options" under serious consideration by the President. On occasion, now less frequent than in previous years, the Estimates folk are given an inkling of closely held courses of action that

may be under high-level review through requests from the White House or the NSC to undertake a "Special" National Intelligence Estimate on "The Consequences of Certain Possible Steps the United States May Take Toward (let us say) Cashmania."

The position of the men and women in the Office of National Estimates, particularly those on the Board, is unique in the government (their closest counterparts were members of the Policy Planning Staff of the Department of State prior to the recent reorganization of that staff). They are among the most senior civil servants in the government, but unlike their peers elsewhere in the CIA or in other agencies and departments, they have no managerial or administrative responsibilities, they are not obliged to concern themselves with the painful and mundane matter of the annual budgets, they are not asked to appear before congressional committees. Their assigned responsibility is to brood about the world's problems and to project their views about how these problems are likely to affect American national security interests. No one has ever tried to cost out the production of a National Intelligence Estimate. Even if the dollar costs could be determined, who is to weigh the nondollar value of a considered, objective judgment, based on all relevant available information, on a matter important, perhaps vital to American security? At a time when government officials of whatever stature find themselves so harried that thinking time is at a premium, a group of experts that has an opportunity to ponder is a scarce and precious national asset.

The salad days of CIA's Office of National Estimates were during the Eisenhower administration. It was in this period that the estimators sensed that they had a direct, or at least discernible, participation in the policy process. The National Security Council then played a more important role in the formulation of national security policy than it did under its creator, President Truman, or has under any subsequent administration, including the present one. Anxious to make the NSC a more orderly and effective body, President Eisenhower established a Planning Board charged with "staffing out" policy reviews and recommendations prior to consideration by the Council itself. The Planning Board was chaired by the President's Assistant for National Security Affairs and its membership included representatives from the departments and agencies which comprised the NSC. The State Department member, for example, was the chairman of the Policy Planning Staff. The CIA adviser (both the CIA and the Joint Chiefs are nominally, at least, "advisers" rather than "members" of the NSC) was the Deputy Director for Intelligence to whom the Office of National Estimates was then responsible.<sup>3</sup>

The typical Planning Board arrangement involved assigning to the State Department's Policy Planning Staff the task of writing a "position paper" on the issue at hand and to the intelligence community, through the Office of National Estimates, the chore

of preparing a National Intelligence Estimate. In due course, a Planning Board draft would be prepared incorporating the essence of these two documents and appropriate contributions from the Bureau of the Budget, the Department of Defense or other member groups.

While this was a far cry from having a firm assurance that the President and his advisers personally read the National Intelligence Estimates, it provided a built-in arrangement for gearing intelligence guidance into the policy-making process. Moreover, Allen Dulles, then Director, included a summary of relevant Estimates in his weekly briefings to the Council. This did not mean that every Estimate was heeded or even taken very seriously by the policy-makers. But the estimators had some confidence, then, that their views were at least considered prior to a National Security Council position and a presidential decision.

President Kennedy was more interested in dealing with selected individuals than with formal institutions. He abolished the Planning Board together with other subordinate groups that had mushroomed under Eisenhower's NSC and, like President Johnson later, used the Council primarily as a vehicle for communicating decisions already reached in smaller, more congenial forums. There were still high-level, sometimes urgent, requests for Estimates directly addressing pending policy decisions,<sup>3</sup> but ONE's umbilical cord to the policy-making process was severed with the disappearance of the Planning Board. The fact that John Kennedy was a "reading" President was, of course, some compensation. (He is reported to have once called a startled young member of the Estimates Staff about a point in an estimate on Indonesia.)

Aside from momentary diversions into the Caribbean and the Middle East, the Johnson administration's foreign policy concerns were dominated by Vietnam. It is revealing that President Johnson's memoirs,<sup>4</sup> which are replete with references to and long quotations from documents which influenced his thinking and decisions on Vietnam, contain not a single reference to a National Intelligence Estimate or, indeed, to any other intelligence analysis. Except for Secretary McNamara, who became a frequent requestor and an avid reader of Estimates dealing with Soviet military capabilities and with the Vietnam situation, and McGeorge Bundy, the Office of National Estimates had a thin audience during the Johnson administration. This is not to say, of course, that "current intelligence" on crisis situations was ignored. It is to say that Estimates, think pieces and in-depth analyses were far from best sellers.

Early in its tenure the Nixon administration publicly emphasized its determination to restore the National Security Council to its place at the pinnacle of the policy-making pyramid and to establish a more orderly process of policy planning and review. But the system that evolved relegated the National Estimates to but a tiny fraction of the studies, analyses, position

papers, contingency plans, research reports and memoranda generated by the large new NSC staff murmuring the magic words, "The White House wants immediately. . . ." How much of this deluge of paper has ever been read and assimilated by even those NSC staffers who originally requested the material is a well-kept secret and understandably so. How much ever went beyond their overflowing desks to Mr. Kissinger's busy deputy, to the harassed Mr. Kissinger or to the even more harassed President can only be imagined. A safe bet would be precious little.

Most Americans concerned about foreign affairs have long had to accept on blind faith that our government takes pains to provide its highest officials with the best possible intelligence guidance—and then to squirm under our private suspicions that this advice is, all too often, regarded with indifference. Thanks to Daniel Ellsberg, those of us who have not seen a National Intelligence Estimate for many years, or who have never seen one, can address the matter with somewhat more confidence than we could have a few months ago. Although it probably did not cross Ellsberg's mind when he released the "Pentagon Papers" to *The New York Times*, he succeeded in doing what the Agency, on its own, has rarely been able to do for more than 20 years: he made the CIA "look good" through what inhabitants of the Pickle Factory themselves would call a "highly credible source."

## II

By some stroke of prescience, President Truman singled out Southeast Asia as his example of a problem area where the National Security Council would call for intelligence guidance for policies under consideration. Since Truman wrote his memoirs, this troubled part of the world has given rise to a fair share of NSC deliberation, intelligence analysis and policy decisions. While the "Pentagon Papers" tell us little about what actually happened in the White House Cabinet Room, they do reveal much about the intelligence guidance made available to the policy-makers. The record, recently amplified by President Johnson's memoirs, gives us some insight into the extent to which such guidance was reflected in policy decisions. A review of the record is disquieting.

In the summer of 1954, following the Geneva conference, the Eisenhower administration was desperately attempting to erect a shield against further communist expansion in Asia. Secretary Dulles, especially, was determined to develop a strong anti-communist government south of the 17th parallel in Vietnam and to replace the French economic, military and political influence in that area with our own. The man the United States counted on to establish strong anti-communist rule was Ngo Dinh Diem. By mid-summer, the issue of American support for Diem's fledgling and untried government was high on the NSC's agenda. The CIA was requested to prepare an Estimate on the viability of a Western-supported anti-communist government in Vietnam. According to the "Pentagon Papers," the National Intelligence Estimate of August 3 warned that "even with Amer-

would be able to establish a strong government and that the situation would probably continue to deteriorate." The NSC, nevertheless, recommended American aid for the frail and untried Vietnamese government, a recommendation that was soon followed by President Eisenhower's fateful letter to Diem offering American support.

This estimate has long since been validated and it seems clear that the United States would now be better off if President Eisenhower had paid more heed to that warning and less to the strong pressures that were being exerted by his Secretary of State and hard-line members of Congress. But this would probably be asking too much, considering the atmosphere in Washington during the summer of 1954. In any case, the Diem régime proved reasonably effective and stable until 1959, four years after the estimate—a period about as long as any intelligence judgment can be projected with confidence and any particular policy can be expected to be viable. It is probably a moot point, therefore, whether the estimators or the policy-makers were right in terms of what they knew and what they said and did in 1954. What is worth noting for our purposes here is the readiness of the estimators to send forward a point of view very much at variance with the current policy "line." This attribute, comes through time and again over the succeeding years.\*

The 1954 Estimate was but the first of many blinking yellow lights flashed from intelligence analysts to the Eisenhower, Kennedy and Johnson administrations on the course of events in Vietnam. In August 1960, according to the "Pentagon Papers," the National Security Council was told that unless Diem's government took "more effective measures to protect the peasants and to win their positive coöperation" the Vietcong would expand their areas of control. If adverse trends were not checked, the estimate noted, "they will almost certainly in time cause the collapse of Diem's régime." Six months later officials in the new Kennedy administration were given an even sharper warning: "An extremely critical period . . . lies immediately ahead." Diem's "toleration of corruption" and his reliance on "one-man-rule" cast doubt on his ability to lead the government. And in October 1961, when Kennedy's NSC was considering deploying SEATO (South-East Asia Treaty Organization) ground forces to Vietnam, it was cautioned that, "The communists would expect worthwhile political and psychological rewards from successful harassment and guerrilla operations against SEATO forces. The DRV (North Vietnamese Government) would probably not relax its Vietcong campaign against the GVN (South Vietnamese Government) to any significant extent." In November 1961, shortly after General Taylor and Walt Rostow returned from their trip to Vietnam recommending, *inter alia*, that the United States "offer to introduce into South Vietnam a military Task Force," a National Intelligence Estimate warned that any escalation of American military activities in Vietnam would be matched by a similar escalation by Hanoi: "the North Vietnamese would respond to an increased

U.S. commitment with an offsetting increase in infiltrated support for the Vietcong." Kennedy turned down the recommended "Task Force," but approved a substantial increase in American military advisers.

In June 1964, CIA analysts challenged the validity of the hallowed "domino theory." According to the "Pentagon Papers," President Johnson asked the Agency: "Would the rest of Southeast Asia necessarily fall if Laos and South Vietnam came under North Vietnamese control?" "With the possible exception of Cambodia," the President was told, "it is likely that no nation in the area would quickly succumb to Communism as a result of the fall of Laos and South Vietnam. Furthermore, a continuation of the spread of Communism in the area would not be irreparable. . . ." So long as the United States retained its offshore bases in Asia, China and North Vietnam could be deterred "from overt military aggression against Southeast Asia in general." But, as President Johnson himself confides, the "domino theory" continued to dominate his thinking about Vietnam: "... from all evidence available to me it seemed likely that all of Southeast Asia would pass under Communist control, slowly or quickly, but inevitably, at least down to Singapore but almost certainly to Djakarta . . ." if the United States "let South Vietnam fall to Hanoi."

Intelligence officers apparently have been consistently bearish about the effectiveness of American bombing of North Vietnam. During late 1964, when a group of contingency planners were examining the costs and advantages of bombing North Vietnam, intelligence analysts took issue with those who maintained that bombing would force Hanoi to cease supporting the insurgency in South Vietnam: "We do not believe that such actions [*i.e.* bombing the North] would have a crucial effect on the daily lives of the overwhelming majority of the North Vietnam population. We do not believe that attacks on industrial targets would so exacerbate current economic difficulties as to create unmanageable control problems. . . . [The Hanoi régime] would probably be willing to suffer some damage to the country in the course of a test of wills with the United States over the course of events in South Vietnam." As the Pentagon historians note, this view had little influence on the contingency paper which emerged.

In November 1965, after eight months of American bombing without any discernible effect on Hanoi's ability to continue the war, there was a quest for more "lucrative" targets. The Joint Chiefs proposed bombing North Vietnamese petroleum storage facilities, and Secretary McNamara asked for the views of the Board of National Estimates. "Hanoi would not be greatly surprised by the attacks," the Board responded. "Indeed . . . it has already taken steps to reduce their impact. . . . We believe that the DRV is prepared to accept for some time at least the strains and difficulties which loss of the major POL facilities would mean for its military and economic activity." After the petroleum storage facilities had been bombed in June 1966, it became clear that Hanoi had pre-positioned its petroleum facilities throughout the country.

A month later, McNamara asked the Board to estimate the

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and air activity. There must be many officials of the Johnson administration who now wish they had taken more cognizance of this in late 1965: "Present Communist policy is to continue to prosecute the war vigorously in the South. The Communists recognize that the U.S. reinforcements of 1965 signify a determination to avoid defeat. They expect more U.S. troops and probably anticipate that targets in the Hanoi-Haiphong area will come under air attack. Nevertheless, they remain unwilling to damp down the conflict or move toward negotiation. They expect a long war, but they continue to believe that time is their ally and that their own staying power is superior." "An escalation of the bombing would not be decisive: the DRV would not decide to quit; PAVN [North Vietnamese Army] infiltration southward would continue. Damage from the strikes would make it considerably more difficult to support the war in the South, but these difficulties would neither be immediate nor insurmountable."

Throughout 1966 intelligence analysts were to continue to maintain that the American bombing of North Vietnam would not produce "either a military victory or early negotiations." During a sober moment of rethinking about the bombing in the spring of 1967, McNamara requested three intelligence assessments on this issue. According to the "Pentagon Papers," one CIA study concluded that 27 months of bombing "have had remarkably little effect on Hanoi's overall strategy in prosecuting the war, on its confident view of long-term communist prospects, and on its political tactics regarding negotiations." Another described North Vietnamese morale as one of "resolute stoicism with a considerable reservoir of endurance still untapped." And a third noted that although the bombing had "significantly eroded the capacities of North Vietnam's industrial and military bases," the damage had "not meaningfully degraded North Vietnam's material ability to continue the war in South Vietnam."

### III

The snippets of intelligence guidance which the "Pentagon Papers" reveal may not, of course, be the whole story of intelligence judgments offered and intelligence judgments heeded. The complete text of the documents which were cited may have couched the conclusions in a more tentative form; Intelligence Estimates and memoranda tend to be generously sprinkled with "on the one hand and on the other hand" and "on balance we believe." The Pentagon historians refer to other documents which countered or at least dissipated the effect of those prepared in the intelligence community as a whole or within the CIA itself. For example, the "Pentagon Papers" frequently refer to assessments of American bombing submitted by the Joint Chiefs which were typically more bullish than those generated within CIA or produced by the Office of National Estimates with contributions from and the concurrence of the Defense Intelligence Agency. The extent to which Defense Intelligence analysts had a hand in the Joint Chiefs' assessments is unknown, but one must assume that they played some role. Secretary McNamara may have become concerned about this apparent schizophrenic tendency within the Defense Intelligence staff because he tended

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increasingly, to rely on the Board of National Estimates or other components within CIA for their own, uncoordinated, views on current or projected U.S. courses of action regarding Vietnam. Who besides McNamara was influenced by the CIA judgments, and who by the JCS, the "Pentagon Papers" do not say.

But they do indicate that the CIA's estimators and analysts, if not those within the Pentagon, appear to have passed the test of time, the sternest test of all. Confronting one of the most passion-laden, persistent and dangerous foreign crises the United States has confronted since World War II, they consistently seem to have kept their cool, they remained impeccably objective, and they have been right. But if the record was so good, why wasn't anyone Up There listening?

Sherman Kent, a seer among the professional intelligence analysts and a long-time Chairman of the Board of National Estimates, has said, "The nature of our calling requires that we pretend as hard as we are able that the wish is indeed the fact and that the policy-maker will invariably defer to our findings. . . ." He feels that his associates' concern about their influence is misplaced; "no matter what we tell the policy-maker, and no matter how right we are and how convincing, he will upon occasion disregard the thrust of our findings for reasons beyond our ken. If influence cannot be our goal, what should it be? . . . It should be to be relevant within the area of your competence, and above all it should be to be credible."

This exemplary admonition must be satisfying to Mr. Kent's co-professionals, but it is less than nourishing to those of us who are not as lofty-minded nor so high above the battle. Intelligence judgments on Vietnam, we now know, were both "relevant" and "credible" but were ignored or cast aside. Why? Because, since at least the early 1960s, they ran counter to the mood prevailing in the upper reaches of the policy-making community.

With the notable exception of Secretary McNamara (whose eventual change of view on the wisdom of our Vietnam policy may in no small part have been influenced by the seriousness with which he regarded CIA's assessments), senior officials seem to have dismissed the intelligence judgments as "just another opinion." It would be surprising if President Johnson had actually read the intelligence documents referred to in the "Pentagon Papers." Indeed, as he points out in his memoirs, the "Wise Men" he had assembled to examine American policy alternatives following the communists' 1968 Tet offensive were receiving "gloomier" assessments of the situation in Vietnam than he had been aware of. On important and sensitive political questions, intelligence judgments were virtually excluded from consideration. The State Department's Intelligence Bureau, for example, was cut off from the distribution of telegrams dealing with negotiations initiatives in 1966 and 1967, and thus was precluded from playing any useful role in this area. Intelligence analysts were thus banished to the darkness of official indifference. We know much less about the disposition of the Nixon administration, but it is no secret that the word has been passed down that Nixon officials are interested in facts, not opinions.



What can we realistically strive for in closing the yawning gap between the ultimate analytical product of an elaborate and costly intelligence structure and the tight if not always orderly process of arriving at national security and foreign policy decisions? Obviously, it is unrealistic to expect that policy-makers should be bound by the advice of intelligence analysts or even that intelligence judgments or guidance should be influential in every major decision; we already have acknowledged that other considerations may override intelligence assessments concerning the probable risks or advantages in a particular course of action. But the operative verb should be "override," not "disregard." We do have a right to expect that the findings of Intelligence Estimates be put forward in policy councils, pondered upon and then accepted or, by conscious decision, set aside.

The policy-making process comes into final focus and decisions are ultimately reached through oral rather than written communication. It is at this critical juncture that officials should perceive, as clearly as possible, "the effects a policy is likely to have." And it is at this point that the men whose métier it is to render such judgments should be directly involved. But long-standing practice has insulated the estimators from face-to-face confrontation with those who grapple with policy issues and options. Clearly if they are to play a more direct and useful role, the estimators must be brought out of their cloister into the real world. They must, in short, engage the policy-makers.

If not *the* Board of National Estimates, a Board should be given a broader charter which would assign it responsibilities well beyond that of presiding over National Intelligence Estimates. In effect, Board members should function within their special areas of experience and expertise as senior intelligence advisers to the policy community. The issues they should undertake or be called upon to examine and the nature of their participation obviously call for discrimination. The value of their contribution will stem from their unique opportunity to form considered judgments and to maintain cool objectivity; indiscriminate participation in every policy discussion is likely to erode both of these precious attributes to the point where they are just one more group in Washington living by its wits in an atmosphere of advocacy and passion.

The recent reorganization of the intelligence community provides an opportunity to increase the prestige and the influence of an Estimates Board. The Director of Central Intelligence has been relieved of his day-to-day responsibilities for running the Central Intelligence Agency and has been given greater authority over all the government's intelligence services. The Director in his new role will need a strong, knowledgeable policy support staff experienced in extracting, digesting and using the information and analysis available throughout the intelligence community. One way of meeting this need would be to provide the Director with a senior personal staff which would work closely on issues under consideration in high policy councils and represent him in consequential, subordinate forums.

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Another, more draconic alternative for giving a greater emphasis to intelligence judgments would be to remove the estimating responsibility from the Central Intelligence Agency and place it within the National Security Council structure. In essence, this would expand the role of the new Net Assessments Staff created by the recent reorganization. Broad political and economic judgments as well as more quantitative assessments of the strategic balance could then be channeled directly into policy forums. Such a move would also give the estimators a more sensitive feel for policies under consideration. Close association with the policy element of the National Security Council would permit an Estimates Board to initiate intelligence analyses and estimates that would squarely confront national security issues in their early stages of review. Under these circumstances, estimates would be more relevant as well as more influential.

But what about objectivity, the quality that has distinguished the estimates over the years? The risk of sacrificing this in the quest for influence cannot be dismissed lightly. Obviously the objectivity-influence trade-off must be closely examined before giving the National Security Council ultimate responsibility in making intelligence judgments. On the assumption that the objectivity issue can be resolved, direct access to an Estimates Board by the President's Special Assistant for National Security Affairs and, on occasion, the President himself, would make available what every President since Truman has said he wanted, but what none of them has been able to obtain on a routine basis—the best possible first-hand intelligence judgments on critical international problems.

A move of this kind would obviously involve consequential changes in organization and philosophy within Washington's intelligence and policy hierarchies. It would also add to the influence on foreign policy exerted by the White House—an influence already a matter of congressional criticism and State Department concern. But, the price would appear tolerable if a more thoughtful and prudent approach to the world was the result.

<sup>1</sup> "Memoirs of Harry S Truman." New York: Doubleday, 1958.

<sup>2</sup> ONE has since been removed from the Intelligence Directorate of the CIA and now operates under the Office of the Director.

<sup>3</sup> During the Cuban missile crisis, for example, the President's "Executive Committee" requested several estimates.

<sup>4</sup> Lyndon Baines Johnson, "The Vantage Point: Perspectives on the Presidency, 1963-1969." New York: Holt, Rinehart and Winston, 1971.

<sup>5</sup> The Vietnam estimate of August 1954 was by no means the first example of this kind of objectivity; many estimates on East Asia written during the 1950s went squarely against the policy inclinations of the time.

<sup>6</sup> *Op. cit.*, p. 151.

<sup>7</sup> Sherman Kent, "Estimates and Influence," *Foreign Service Journal*, April 1969, p. 16.



FOREIGN POLICY, PUBLIC OPINION  
AND SECRECY*By Nicholas deB. Katzenbach*

WHAT foreign policy will arise from the ashes of Watergate—and how it can gain that public consensus without which no foreign policy can hope to succeed—are questions we need to address now. Drift, debate, division are the inevitable aftermath of recent events; and it will take time and leadership—both in short supply—to discover, to create and to build upon a viable consensus.

The problem, of course, is not simply Watergate—though the destruction of presidential leadership and credibility and the confrontation of Executive and Congress which have accompanied that disaster would be problems enough. What adds infinitely to those difficulties is the clear connection between the sordid revelations of Watergate and the conduct of the Indochina War (at home and abroad), which in turn is related to the sometime excesses of a foreign policy too oriented to cold-war concepts of “national security.” The relationship is neither accidental nor coincidental, and it is important to the future of our foreign policy to understand why this is so.

I have come to this conclusion with considerable reluctance for two reasons: First, I would feel personally more comfortable if all that is associated with Watergate could be blamed on President Nixon—if the lawless and totalitarian overtones of his administration could be seen as purely aberrational, without roots in the past. To a large degree I think they are, but unhappily they are not so rootless as I would wish.

Second, I can give no support either to Henry Kissinger, who understandably would like to segregate Watergate from the real need to consolidate and perhaps even institutionalize the Nixon administration's productive advances in moderating our relations with the Soviet Union and China; or, at the opposite extreme, to the revisionists who rewrite the history of post-World War II foreign policy in ways which adjust the past to their present and future preferences. We have to go through a difficult period if we are to build, as we must, on a solid basis of popular support for our foreign policy, and the essentials of that task are candor and honesty.

The thesis of this article is simple. Our foreign policy must be based on policy and factual premises which are accepted by the overwhelming majority of the American people. This means that this President or his successor must reestablish the credibility of that office; that there must be broad support in the Congress and in the press and public for the policy he seeks to forward, and virtually total confidence that there is no manipulation of facts to prove the wisdom of that policy or, which may often be the same thing, the honest commitment of his administration to it. Today—when confidence in the honesty and integrity of both the President and the Congress is at a low ebb—this is a task of the first importance.

... we may have to modify or abandon foreign policy objectives supported by many to arrive at a satisfactory level of public approval. We hope to succeed in any foreign policy, however modest it may be by comparison with either the recent past or the somewhat lesser role which the United States might legitimately be expected to play in the future.

II

In foreign policy there is no substitute for presidential leadership in formulating and administering our foreign affairs. To say this is not to denigrate the role of either Congress or the public. The President needs support in both quarters, and if, despite his considerable power, he cannot achieve it, then he must trim his objectives to those which will be supported. In the past this basic fact of democracy has undoubtedly restrained and inhibited Presidents from acting in circumstances where later judgment would have supported the wisdom of doing so; the experience of President Roosevelt between the 1937 quarantine speech and the 1940 election was a classic and bitter example to men and women then forming their views. Indeed, this unhappy restraint may well have been a factor in the subsequent assertion of presidential prerogatives, with the result that no President since Truman has felt similarly restrained.

At any rate, the pendulum has now swung back. In recent history--especially in regard to Vietnam and related events in Southeast Asia--the effect of broadly held public views on our foreign policy has been very great indeed. This is hardly surprising. Concern for our national safety and independence are bound to be strong in times of crisis. The influence on the public of a sense of extremely large and unnecessary costs in human lives, or dollars, or risks of even more massive future involvement, is almost as great. One should hardly expect these powerful sources of public motivation, channeled at any given time into particularly widely held attitudes about the outside world and our relations with it, to be anything less than a major determinant of foreign policy in a democratic society.

There is nothing subversive about all this--although it may appear so to a President thoroughly committed to the importance and rightness of a particular course of action. Vocal and widespread dissent may easily frustrate his policy; damage our national security as he perceives it; severely limit his capacity to lead; and encourage the view that such opposition is truly subversive, the work of our enemies, and something to fear and even seek to repress.

Yet in fact the expression of dissent, however vocally vehement, is fundamental to the functioning of our democracy. Those responsible for the creation and execution of our foreign policy must be responsive to public attitudes and cannot seek to repress dissent and disagreement, conceal the truth from the public, or violate the letter and the spirit of the Constitution. There is no "country" whose interests they serve apart from the people of the United States. There are no "interests" of that country apart from the interests of its citizens. However difficult and complex our foreign policy may be, there is no license to free it from the

mandates of the Constitution or the constraints of public views, Approved For Release 2004/03/25 : CIA-RDP80M01133A001000040005-9  
plex problem can be freed from the same constraints.

All of this ought to be self-evident. That it is not -- or, at least, that Presidents, and especially the present Administration, do not appear to accept it in fact -- is the product of history, of the problems of a relatively open foreign policy, and finally of the rationalizations for secrecy, deception and unrestrained presidential leadership which have resulted from our conduct and national attitudes during the cold war.

First, throughout most of our history the American people have had little concern with foreign policy: there has been no continuing, everyday, costly involvement in relations with other nations. Apart from two world wars, foreign policy had little effect on our daily lives. With the notable and important exception of its negative role between those wars, Congress had little involvement and little interest.

Continuing and widespread public concern over our relations with other countries is really a phenomenon of the last 25 years. Measured in terms of even our relatively short history as a nation, we have not had much time to gain experience or adjust our political institutions to this new state of affairs.

Second, we were thrust into world affairs after World War II in an atmosphere of continuing crisis and virtually total responsibility for the future and well-being of the non-Communist world. We perceived the Soviet Union and its satellites as a major threat to our values, our national security and the continuing existence of a "free world" -- and hence to our own national survival. In general, with disagreement only in degree, this view has prevailed until very recently. It may have been painting international affairs with too broad a brush, but I do not think it was essentially wrong, and I believe that the foreign policy which evolved from this thesis was by and large successful until 1965, even in cases where its stated premises were questionable.

As a touchstone of domestic politics, this policy had its vices as well as one great virtue -- the capacity to unify Americans behind an expensive, tough, far-flung foreign policy. The Truman Doctrine, the Marshall Plan, the rehabilitation of West Germany and Japan, NATO, the Common Market, military assistance, Point Four and economic assistance to developing nations, even our Latin American programs -- many of them policies of high humanitarian content and internal motivation -- all were justified, to Congress especially, in terms of national security related to the threat of world communism backed and encouraged by the Soviet Union.

The vices of this policy -- of what became a bloated concept of national security -- have been that it has tended not only to over-extend our national commitments but to inhibit public debate and understanding of the complex world in which foreign policy is made and executed. It has, of necessity, given a major voice in

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foreign affairs to our large military establishment, and for much of the past 25 years there has been a tendency to equate dissent or criticism with disloyalty, with subversion, with being a Communist "dupe." Obviously this repression of dissent reached its peak after the "loss" of China and during the era of the late Senator Joseph McCarthy. But appearing to follow the Communist line has been a political risk for critics during most of this period. And, again because of its "national security" premise, the policy has bred a host of questionable practices relating to security clearances, systems of classification of information, lists of subversive organizations, and snooping by security agents into the background, beliefs and associations of many citizens. It is not too long a step from security practices of the past to the ridiculous beliefs of the Watergate "plumbers" and their creators, and to the acts they sought to justify in the name of national security. Indeed—and I think this is a major part of the problem—very little of the protest activity associated with Vietnam would have been tolerated in the 1950s, and repressive measures might well have been accepted by the general public not so long ago.

### III

But I think the most dangerous part of our foreign policy of containment of communism has been the extent to which it has made our Presidents prisoners of popular political passion. Any foreign policy—and certainly one as global as that of the United States—involves inevitable trade-offs among the various costs we must pay for our security and well-being. Some mix of dollar costs, lives, nuclear risks, and risks because of changing allegiances of governments and populations is the daily gruel of those who seek to decide. Dollar costs can be reduced by a policy of massive retaliation, accenting increased nuclear risks. Both costs and nuclear risks can be reduced if we are willing to tolerate the loss of various allies or of influence in countries of marginal importance to us. But costs there will be, and trade-offs will continue to be the grist of our foreign policy. Yet the public has never been made aware of this central fact—and only after the price of Vietnam became so totally unacceptable have many become aware of the costs implicit in our foreign policy as it has stretched down the years and over space from its origin in the time of the Truman Doctrine.

Thus, since China and the McCarthy aftermath, no President has been politically willing to question the basic objective of no loss of territory to Communist regimes—to admit that such an objective cannot be absolute and that it may involve excessive risks of nuclear war or unacceptable costs of limited war (as it did in the end in Vietnam and might well have done in Korea as well). Accepting that objective as all-controlling, we have promoted it by our economic and military aid programs, by our systems of alliances, and to a limited degree by covert activities. We have seen dominoes not only in Southeast Asia and in Greece and Turkey, but also in Africa and Latin America. We have hoped that we could deter and prevent loss of territory by showing up friendly regimes, giving them the military means to prevent sub-

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We have not been able to be selective in the process—as we should and could have been. Our selectivity has been dictated more by crisis than by purpose or policy; wherever the danger of Communist take-over existed, there went the dollars and the arms.

Again I do not suggest that, in the reality, this fire-fighting principle was either all good or all bad. I do suggest that it was motivated as much by the fear of the domestic political consequences of any “loss of territory” to communism as it was by serious security calculations. Legitimate concerns about Soviet expansionism and subversion were converted, after China and the Korean War, into domestic political fears of the consequences of a Communist take-over in Cuba, the Dominican Republic, Guatemala, Chile, the Congo, Tanzania, Iran, Vietnam, Laos—the list goes on and on. Since the Communist techniques of subversion, assistance to revolutionary groups, propaganda and exploitation of legitimate complaints have been extremely difficult to thwart or deflect by traditional diplomacy, we have often been forced, for better or worse, to give overt economic and military aid to repressive regimes. Worse yet, we have had to resort to covert means to blunt revolutionary movements aided and abetted by covert Soviet (and Chinese) funds and assistance. We have been forced to deny publicly—almost by definition—the covert assistance, and to defend the overt aid in terms of some threat to our national security—or worse, the democratic aspirations of dictators. Since the threat was often less than obvious—probably based on the assumption (not entirely unrealistic during the early part of the cold war) that Communist governments were totally subservient to Moscow—we reinforced by our words and actions the concept that any “loss of territory” anywhere was a potential threat to the United States. Everything we did tended to confirm the common perception that any adverse result was a disaster for the United States—thus making it a serious potential political disaster to the Administration that let it happen.

My purpose here is not to seek to disentangle the real from the imagined. My point is that no effort to do so was politically possible. Every President felt threatened by any Communist success anywhere, and took steps—some, at least, excessive in retrospect—to insure that the blame was not his. He operated in a climate of opinion where to be “soft on communism”—to lose anywhere, any time—was a serious blow to his status at home. And Presidents acted accordingly.

I have said that Presidents became the prisoners of the cold-war view of politics, even though each also contributed to it. The general public and congressional perception of the cold war—and, incidentally, of an exaggerated American power to influence and control events—made it virtually impossible for any President to be candid about the costs and risks of our foreign policy. The “China syndrome”—the aftermath of Joe McCarthy—meant politically that it was easier to accept the premise of “no loss of territory” in the hope that his Presidency would not be called to account than to attempt to gain public and congressional acceptance that the premise might involve unacceptable risks and costs. There was no hope—perhaps no time without crisis—for a public



debate in the 1960s about the premises of the 1950s. Could President Johnson have permitted a Communist take-over in the Dominican Republic, and if so, would he and not regard "friendly regimes" as important enough to our foreign policy to warrant military intervention? Was the American public prepared for such a statement? And was it, on the other hand, prepared for the costs which Vietnam demanded?

#### IV

In a sense, all of this political exposition is prelude to the major point of secrecy. But it is, I believe, tremendously important to the understanding of why we are where we are.

In our political system the President enjoys—or suffers—enormous advantages of leadership. His is an extremely difficult role to share, and to a considerable extent the advantages interact with the problems, one upon the other, to cripple the political system. His principal advantage is that the general public—even the best-informed public—views the world beyond our borders as confusing and dangerous. In the mass of information that flows to us each day, it is harder and harder to tell the players and the teams without a program.

To the extent that the average citizen is confused, he tends to place his trust in the President and in the experts. The feeling of danger—reduced and diffuse today but still very much present—brings with it a strong sense of the necessity for teamwork under a united leadership. And so the President operates from a protected position behind the high wall of the public's desire to delegate trust to one man—a wall built, on the one hand of feelings of danger and confusion, and, on the other, of the fact that the President, as our nationally elected leader and our "sole voice" in foreign affairs, is the natural recipient of that trust. An opponent who would attack the President's leadership must first convince the public to endure the feelings of danger and uncertainty that come when trust and confidence are taken from the President. And that is a risky political endeavor.

Unfortunately, Presidents are inclined to think this blind trust in their wisdom is wholly justified. Having almost sole access to the full range of classified information and expert opinion, Presidents are tempted to think that the opinions of Congressmen, academics, journalists and the public at large are, almost unavoidably, inadequately informed. It is too easy to conclude that the opinions of others lack essential knowledge and that unequal information and unequal background make their views less important. The subtle insights of specialists or classified pieces of information are often accorded a totally undeserved attention and importance in comparison to more widely shared insights and knowledge.

All this reduces the politically healthy feeling of being constrained by the disagreement of many of one's peers. But that might not be particularly serious if the President and the executive branch were bias-free and single-minded in their desire to produce results representing the long-run preferences of the American public. Unfortunately, neither of these conditions is likely to prove true.

For there are biases built into the position of the President—biases which are likely to lead to departures

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from the needs of the country as perceived by others. For one thing, the very factors which reduce the value of the opinion of the public make it a way of spreading to questions of basic values. There is a tendency to assume that such fundamentals as the amount of dollar cost the public will bear to reduce nuclear risks, or the loss of lives that we will bear to avoid a particularly offensive weapon, are technical decisions for experts—although these decisions plainly involve only value judgments, not specialized knowledge, once the choices are fairly laid out.

The problem is further complicated by the fact that Presidents in recent years have become increasingly enamored of their role on the stage of world affairs and are likely to resist a more limited role even if the public were to assign it to them. Presidents want to secure an honored place in history and feel that the scope of American power, prestige and influence is a crucial aspect of a historian's memory of their terms of office. This can be a heady business. It is compounded by the relative freedom that the President has in foreign affairs—freedom from annoying congressional restraints and freedom based on the generalized need of the public for unitary leadership in times of danger. It would be going too far to say that a President welcomes a Cuban missile crisis or a Six-Day War in the Middle East. But it would not be going too far to say that the Presidency thrives upon it, as the Nixon Presidency has thrived on his televised visits to China and Russia.

All of these pressures make a relatively retiring presidential role less likely whatever the public interest. When they lead a President to costly or risky policies with which much of the public cannot identify its interests, or which seem to exceed the discretion required by the danger, these biases can cause the President to lose that basis of popular support on which he necessarily relies.

Over the years, then, we have moved farther and farther away from the basic premises of our democratic political system to put important decisions on foreign policy in the hands of the President and, in effect, to charge him with its successful administration. Our almost total reliance on the President's leadership and accountability; the felt need to fight insurgency with counterinsurgency, often secretly; our unwillingness to test foreign policy initiatives in the ways in which we test domestic policy proposals—through debate and discussion; the appeal of "national security" as sufficient justification for a vague and extensive foreign policy; and, most of all, the fear of the President that his political popularity, his place in history and his capacity to lead all depend on not having another China, or Cuba, or other major loss to communism—all these considerations tempt a President to go it alone in the hope that the policy will succeed. The temptation to let the end justify the means is clearly present, even if the means requires dissembling or misleading the Congress and the American people. Such conduct can, in the environment of the recent past, be rationalized as necessary to maintain that secrecy on which success depends. And, after all, it is unlikely that the President's honesty and good faith will be brought effectively into question if the policy is successful.

The Bay of Pigs debacle of 1961 is an illustrative example. The appearance, in an open society, of one can expect to launch a covert

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attack on a neighboring country in total secrecy seems patently absurd. For that allegation, there are only two explanations: Presidents Eisenhower and Kennedy must have assumed, first, that the public would not require a political accounting of the authority of the President to act in secret without formal Congressional authorization or knowledge; second, that total failure of the operation was improbable, and that the secrecy essential to its success could be maintained for a sufficient length of time. And I suspect that President Kennedy, despite his obvious reservations about the whole plan, was extremely reluctant as the incoming President to cancel a project initiated by his prestigious predecessor in view of the domestic political risk which that would involve.

The significant aspect of this incident is the fact that President Kennedy's *mea culpa* related to the failure of the mission, and the later investigation into how the President could be so misinformed. He felt no need to apologize for undertaking so extensive a covert activity on presidential authority alone.

Was the Bay of Pigs different in kind or quality from the secret bombing of Cambodia (and falsification of records) at President Nixon's direction? True, in the first case there was complete candor after the event, but in both cases the element of total secrecy was overriding at the time of action, because it appeared necessary to achieve what the President (and many others) regarded as legitimate foreign policy objectives. But, however justified by such necessity, secrecy destroys our democratic process when it also deceives the American public on important and controversial matters.

There have, of course, been other covert operations, though perhaps none so extensive as these. Operations in Laos and Thailand were more or less open secrets, better known to Congress and the press than some recent outbursts would suggest. But nonetheless all such operations raise the question of how far the President can go it alone, and especially when the operations themselves have no formal congressional sanction and are unknown to—and undiscussable by—the general public.

The war in Vietnam has raised still deeper questions. Between 1961 and 1964 our operations in Vietnam through "military advisers" were, at most, partially covert. The fact of their number was known, and their roles only modestly concealed. As the operation grew and the possibility of more massive intervention became clearer—and, I am convinced, well before he had made up his own mind how far he would intervene—President Johnson did go to the Congress for authority in the form of the Tonkin Gulf Resolution. The form, at least, was observed, though unhappily in part as a political response to Senator Goldwater's position in the 1964 campaign.

Yet I cannot, in retrospect, square the Vietnam War with my concept of democratic government. What President Johnson did not do, when he had made up his mind in 1965, was to lay out fairly and frankly for Congress and the American people the choices facing us, the risks we were taking, and the possible consequences of our intervention. His failure to do so led in the end directly to attacks upon his credibility and to a serious erosion of

And, of course, as the war unfolded, lack of candor was compounded by miscalculations that I am sure far outweighed any serious deceit. At critical points, the dominant personalities within the Administration reflected to the President a degree of optimism which turned out to be totally unwarranted, and it was that optimism which the President in turn conveyed to the Congress and the public and which so destroyed his credibility. The voices of caution and doubt were not believed by the President, and were not, therefore, reflected in public statements. Added to what turned out to be miscalculation based on wishful thinking was the concern the President felt about unleashing the more militant forces epitomized in the 1964 presidential campaign by Goldwater and General LeMay. Mr. Johnson did not want the war, felt he could not let Vietnam go without overt military assistance, and was genuinely concerned about its potential for expansion. Once committed, he saw no retreat without too great a loss of prestige both at home and abroad.

In 1965 I have no doubt the public and the Congress would have overwhelmingly accepted and supported our intervention in Vietnam, and that any alternative (harsher or softer) course, as I am sure President Johnson knew, would have badly divided the country. There was in 1965 no basic contrary view; virtually no one of any political weight was avowedly prepared to accept the collapse of the non-Communist government in South Vietnam. In these circumstances it would have been difficult for Mr. Johnson to have volunteered all the risks potentially involved, to have prepared the American people for the worst. His primary political interest was the Great Society—not Vietnam—and his political compromise was to downplay Vietnam in the hope that guns and butter were both possible. In retrospect he should have encouraged a Great Debate; had he known his worst fears would be realized, he undoubtedly would have. Yet the harsh fact is he did not, and that he did not importantly narrowed his future options.

Then, as the war dragged on, and as opposition to it became increasingly vocal, the Administration's motivation subtly changed. It saw the opposition as making an already difficult task more difficult; as stiffening the resolve of the enemy; as making the search for an honorable peace infinitely more complicated. Information withheld, promulgated half-truths, propagandizing the good news—all of which were to a degree misleading—were now justified by the necessity to minimize the degree of opposition so that peace could be more rapidly achieved. And so the credibility gap widened farther, and trust and confidence eroded faster. Ironically, the fact that the statements of the government were less and less believed probably gave the domestic opposition a strength it never could otherwise have achieved.

Mr. Nixon—prior to Watergate—recouped some credibility for the Presidency. He did not, however, do so by frankness and candor. His technique was to reduce the levels of U. S. troops and casualties; to seek to focus attention on other matters by his China initiative; and to continue to dissemble and to re-

power, his seeming disdain for congressional views, and his moving the center of decisions and operations from the State Department to the White House all have tended to reduce public discussion and, consequently, public opposition. And to a completely unprecedented degree he has conducted his foreign policy secretly. He regained considerable trust and confidence in the Presidency, not because his statements were believed, but because many of those naturally in political opposition grudgingly admired the initiatives toward China and Russia and respected the brilliance and competence of Mr. Kissinger.

Unhappily, secrecy in foreign affairs—and particularly in the atmosphere we have lived in for the past 25 years—is easily rationalized. Yet the reasons seldom have much to do with the rationalizations. In recent years, at least, the real motive has been, precisely to avoid the difficulties inherent in our political system and hopefully to present the public with triumphant *faits accomplis*. What initially stemmed largely from confrontation between a growing vocal minority in Congress and the President, as well as increasing public demonstrations, was converted into constitutional principle by Mr. Nixon. In his Administration, neither the Congress nor the public has been informed about foreign affairs except at a level of high generality, and even then without the opportunity for discussion. Indeed, not even the bureaucracy has been consulted or informed. And this in turn has led to a failure to consult with, and inform, our allies abroad, culminating in the insult to the Japanese with respect to the change in our China policy.

Thus, even without Watergate, personal diplomacy conducted in secret, without public understanding or solid institutional foundation within the government, should now be insufficient basis for a viable foreign policy. And if, as I believe, Watergate has destroyed confidence in the President's credibility, much more is now needed.

## V

What must be done today to put our foreign policy on a viable basis is, first, to promote discussion sufficient to establish the domestic consensus necessary to gain acceptance for, and support of, our foreign initiatives. We stand as a badly divided nation and we face some very tough problems. Second, we must restore confidence in the integrity of the Presidency. The Congress and the people need to believe what the Administration says. Both of these objectives mean dramatic change in the style of the Presidency in foreign affairs.

I would propose the following changes:

- (1) The President must indicate that he needs and wants the support and participation of Congress and the public in formulating his foreign policy. He must welcome public discussion and criticism of his proposals. Clearly, he must do the proposing, he must provide the leadership. But he and his principal assistants must be far more willing than in the recent past to lay out candidly the problems, the choices, the recommended actions. To involve the Congress in this fashion is, despite congress-

sional protestations to the contrary, as much a problem for the members of Congress find little political profit with their constituents in foreign affairs and in accepting the compromises necessarily involved. The role of critic after the fact is often more politically rewarding than that of a constructive participant. It is easy for opposition—especially in the Congress—to center around short-term considerations rather than long-term policies, to make appeals to national pride, to criticize almost any negotiation on the grounds that the Administration gave away too much in the mutual bargaining. The record of Congress on many foreign policy issues, usually in the form of amendments to foreign aid bills, is far from a distinguished one; and the temptation of the Executive to interpret away crippling amendments to its foreign policy has served to create still another tear in the fabric of constitutional government.

Secrecy in foreign affairs is not, therefore, a one-way street born of presidential ambition for power. Too often it suits congressional politics quite well—particularly in the House of Representatives, with its biennial elections. The temptation in both parties is to let the President assume responsibility, and to let future events determine the length of his coattails.

Nor is a compromise approach—secret consultations with relevant congressional committees and leaderships—much of an answer. If the issue is sufficiently controversial, there will be “leaks” to the press. If it is not—and especially if the matter is likely to become public knowledge in the near future—I do not think secret consultation serves much purpose. As for special “watchdog committees,” they have generally done more “dogging” than “watching.” Members of Congress feel totally dependent on the information secretly provided by the Administration; they are inhibited by national security considerations in taking their case to the public; they fear the political risk of frustrating executive action on matters they do not thoroughly understand and about which they have no independent information.

I do not wish to put aside totally the wisdom of such consultations and special committees; I only wish to note that they should be used rarely and resisted on both sides as an adequate substitute for a more open process of congressional oversight and decision-making. If the policy in question fails, the fact of this kind of congressional consultation may create as many problems as it solves. Rarely will the members of Congress feel a truly shared responsibility. And the efforts to put them in this position may easily result in recriminations about the nature and quality of the information provided.

No, today there can be no substitute for a general rule of openness with the Congress. Congress must become truly involved in decisions and programs for action, and it must be told what the problems are, what the apparent options for action are, and why the Executive has come forward with particular proposals. If, in the process, nations abroad come to know somewhat more about the way an Administration's mind is working, I think the price—if it is that—eminently worth paying.

(2) It follows that the principal makers of foreign policy decisions should be the Congress, the press and the public.

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If presidential assistants participate in the framing and execution of foreign policy to anything like the degree that Mr. Kissinger has done, they must be exposed to public view and scrutiny, and fully available to the Congress without subterfuge or the use of devious methods.

(3) We should abandon publicly all covert operations designed to influence political results in foreign countries. Specifically, there should be no secret subsidies of police or counterinsurgency forces, no efforts to influence elections, no secret monetary subsidies of groups sympathetic to the United States, whether governmental, nongovernmental or revolutionary. We should confine our covert activities overseas to the gathering of intelligence information.

I come to this conclusion with some reluctance, because in a few instances such activities have been legitimate and useful. But I believe the impossibility of controlling secret activities—and the public's apprehension about them—outweigh the losses which will be sustained. Much of this activity was phased out under Kennedy and Johnson, and I think the rest can go.

(4) We must minimize the role of secret information in foreign policy.

Many Presidents have sought to tinker with the present classification and declassification system, conscious that the tendency to reclassify and to spawn classified files has been out of control for years. If public proof of that fact were necessary, the Pentagon Papers and the ensuing trial provided it. All the documents involved carried high security classification, yet there was little evidence that any related importantly any longer to "national defense"—the test required by the major provision of law under which the trial was held. On the contrary, the evidence was at the trial much expert testimony that none did relate importantly to the "national defense," and a determined and persuasive defense argument that little of the factual information provided in the mass of documents was in fact new. What made the release newsworthy was less its content than its voyeuristic appeal—the relatively rare public exposure of governmental processes to the public eye.

Prior efforts to revise the system have not worked, primarily because in no instance has major surgery been tried. Classifiers have mixed the desire to keep information confidential and "closely held" for whatever reason, good or bad, with information actually affecting the "national defense." To do this is a perversion of the law. Perhaps worse, it is a perversion of the processes of government, because it does not force officials to consider honestly the reasons for confidentiality or the relevant time frame. And the fact of gross overclassification tends, in turn, to destroy the system itself.

Prior to the Watergate exposures, the Nixon administration had presented to the Congress proposals to codify the classification system and to make disclosure of classified information a criminal offense in itself, with the validity of the classification not open to challenge in court. I assume that, in the present climate, any such legislation is dead—and rightly so. While the law under which Mr. Ellsberg was tried is crude, its essential criteria

information or with intent to damage the national interest-- seem to me those that should prevail in this country for purposes for criminal sanctions.

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At any rate, this is and will remain the law--and I believe that the classification system within the executive branch should now conform to it. Essentially, the extremely strict internal procedures of a full-scale classification system, and the threat of criminal sanctions for its deliberate breach, should now be coextensive with the law--while still emphatically leaving to the courts in any prosecution the testing of the validity of the executive classification as well as the question of intent.

What exactly would be covered by such a restricted classification system, limited to matters affecting the national defense? Examples would be CIA and DIA intelligence material on foreign military capabilities, troop dispositions, missile placements, and weapons development; and defense and AEC information on our own weapons systems, future technological developments, current strength and disposition, mobilization estimates, and military plans to the extent such information is not already in the public domain. Even such a drastic cutback as this will result in some overclassification. But it should be more workable than the present morass.

I do not propose that all other information be made public or even generally available. I simply suggest that it not be classified as "national defense" information, carrying such exotic labels as "Top Secret" or "Cosmic Top Secret" or the like. I have no problem with limiting distribution within the bureaucracy of information which is politically "sensitive," or with general rules concerning the confidentiality of discussions with foreign diplomats, ambassadorial or other bureaucratic recommendations as to policy, or personal or investigative records. (In the case of diplomatic exchanges, such common-sense rules long antedate the postwar expansion of classification.) Frankly, I think we can rely on the good sense of bureaucrats to keep confidential what should be confidential most of the time, without employing bloated concepts of national security to do so. I know this worked in the past within the Department of Justice and I see no reason why it should not work elsewhere.

(5) Classification will not stop leaks anyhow. What minimizes these is loyalty to superiors, based not so much on agreement with policy as on respect for their fairness, integrity and openness to recommendations and ideas. A part of the new style of operation must be far greater openness within the executive branch itself. All Presidents fear becoming the prisoners of the governmental bureaucracy, and all Presidents have a healthy distrust of bureaucratic expertise. It is good that they should seek advice elsewhere and that departmental recommendations should be tested in various ways, including the competition of agencies and the interplay between full-time professional officers and those who enter government under political auspices. But to attempt to bypass the bureaucracy has heavy costs not only in the very "leaks" to which I have just referred, but above all in the failure to understand policy, to administer it effectively, to explain it to other constituencies at the appropriate time, and often to make decisions with full awareness of their consequences abroad.

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In the present world situation, far greater congressional and public involvement in formulating our foreign policy seems to me not only right but nearly inevitable. There are two reasons for this:

First, problems of trade, investment, resources, development and international monetary stability promise to take on increasing importance in the future. All of these problems will require legislative solutions and therefore extensive congressional participation and action. All will involve a continuity in policy over relatively long periods of time and thus need public understanding and support.

Second, as communism has become less monolithic, as China has emerged as a competing ideological center, as the Soviet Union has become less stridently revolutionary and more concerned with China and with its own domestic progress, and as Europe and Japan have become centers for wealth and power, security considerations in the United States' foreign policy have become less consuming and less global. Mr. Nixon's approaches to both the Soviet Union and China, as well as the modest progress made in the SALT talks, are evidence of a changing security environment. Problems will remain but they will lack the felt intensity of the past 25 years.

Notwithstanding these changes in the world scene, the shift to a more open style in foreign policy will not be without its difficulties. One is the extent to which openness may in fact reduce options or be perceived as doing so. I accept the fact that it sometimes does. But I also think the extent of that reduction is exaggerated, often for improper purposes. I accept, too, that there are circumstances where the President or the Secretary cannot be totally candid without affecting the situation he is discussing. I think the press and public understand this. They know, for example, that high government officials cannot publicly discuss corruption of high South Vietnamese officials, or that high-level expressions of doubt about the viability of a foreign government may bring it down. But these inhibitions are not serious ones, because the underlying facts—if they are important to understanding policy—can be made available to the public in other ways.

The most serious problem of a more open foreign policy lies in congressional response. In Congress controversy can lead to delay, to inaction, to unworkable compromise, to missed opportunities. Minorities can obstruct; special interests can sometimes manipulate policy more easily on the Hill than in the executive branch. The accident of committee leadership and membership can skew policy away from the national interest to more parochial concerns. No one should be sanguine about these risks. The danger of getting hopelessly bogged down in a congressional quagmire is clear and present.

Nonetheless, I am prepared to take some losses in our foreign affairs if by doing so we can restore the fundamentals of representative democracy to our foreign policy. As Watergate demonstrates, democracy is too fragile to be divided into foreign and domestic affairs. We cannot give the President a free hand in the one without endangering the whole of the governmental system that all policy seeks to preserve.

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CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

Executive Registry

17 SEP 1974

The Honorable William B. Saxbe  
Attorney General  
Department of Justice  
Washington, D. C. 20530

Dear Mr. Saxbe:

On 24 April 1974 I wrote to you to express my concern over the Department's recommendation to the Office of Management and Budget against submission to Congress of legislation proposed by this Agency to amend the National Security Act of 1947 to furnish additional protection for intelligence information. In your reply on 14 May 1974, you expressed your agreement with my goal of preventing unauthorized disclosures of information relating to intelligence sources and methods and of successfully prosecuting violators. You noted that you had asked Assistant Attorneys General Rakestraw and Petersen to work with my General Counsel so that our proposed legislation would be acceptable to all concerned.

In the ensuing months your staffs and mine have had several conferences and have done a great deal of work in an attempt to draft legislation which would be acceptable to the Department and the Agency. While progress has been made and acceptable compromises reached on some issues, the Department and the Agency are still apart on several basic points. The Department has submitted a draft as a result of these conferences which I believe does not answer our needs in three major areas:

- a. in camera court review of the protected information;
- b. statutory injunction authority; and
- c. recognition that heads of other departments and agencies engaging in intelligence activities may designate protected information.

I am enclosing the most recently modified drafts of the Department of Justice's and the Agency's proposed bills and a comparative analysis of

them. The Agency's newest draft attempts to accommodate some of the points posed by the Department.

With respect to court review, I believe that our position is fully consistent with the views expressed by President Ford in his letter of 20 August 1974 to the Chairmen of the Conference Committee Considering the Amendments to the Freedom of Information Act. The President's position was that he could not accept a provision of law which would

... place the burden of proof upon an agency to satisfy a court that a document classified because it concerns military or intelligence (including intelligence sources and methods) secrets and diplomatic relations is, in fact, properly classified,....

However, the President did state that he could accept a provision with an express presumption that the classification was proper and with in camera judicial review. The President then stated:

Following this review, the court could then disclose the document if it finds the classification to have been arbitrary, capricious, or without a reasonable basis.

It is our intent that the in camera review would take place with defense counsel participating.

As I stated in my earlier letter to you, I consider the statutory injunction provision extremely important and believe that the difficulties in securing an injunction in the Marchetti case sufficiently show that another court in another case might not enjoin in the absence of statutory authority. Also, in some cases I believe the injunctive authority can be as great or a greater deterrent to disclosure than is a potential criminal penalty and, more importantly, is more likely to prevent disclosure. While the Department's draft does not include the injunction provision, I understand the Department now may be willing to consider supporting it.

The Department's draft deals only with designation of classified information relating to intelligence sources and methods by the Director

of Central Intelligence. This Agency is only one part of the entire intelligence community. Consequently, it is imperative that the coverage of this bill extend to the entire intelligence community, and the designation of information should extend to other departments and agencies of the United States Government which engage in intelligence activities.

There are a number of other differences of lesser importance between the positions of your staff and mine, but I believe some of these can be worked out. Nevertheless, there are significant differences in the three areas mentioned above, and I feel the need to provide adequate protection to intelligence sources and methods is impelling and well demonstrated. I would hope that we can still work toward a more effective compromise in time for it possibly to be included in the bill (H.R. 15845) amending the National Security Act of 1947, which may be reported by the House Armed Services Committee in the near future. To this end I would like to discuss this personally with you.

Sincerely,

/s/ Bill

W. E. Colby  
Director

Enclosures

Original - Addressee

- 1 - DDCI
- 1 - DCI
- 1 - ExSecy via ER
- 1 - OGC Subj: CIA Acts & Statutes - National Security Act Amendments
- 1 - Chrono

11/5/74

Henry E. Petersen  
yes, Dep. Asst Atty Gen

JSW provided a copy of Ltr to  
Saxbe of 17 Sept 74 and draft Bill  
12 Sept 74

12 September 1974

A BILL

To amend the National Security Act of 1947, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 102 of the National Security Act of 1947, as amended, (50 U.S.C.A. 403) is further amended by adding the following new subsection (g):

(g) In order further to implement the proviso of section 102(d)(3) of this Act that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure --

(1) Whoever, being or having been in duly authorized possession or control of information relating to intelligence sources and methods, or whoever, being or having been an officer or employee of the United States, or member of the Armed Services of the United States, or a contractor of the United States Government, or an employee of a contractor of the United States Government, and in the course of such relationship

becomes possessed of information relating to intelligence sources and methods, knowingly communicates such information to a person not authorized to receive it shall be fined not more than \$5,000 or imprisoned not more than five years, or both;

(2) For the purposes of this subsection, the term "information relating to intelligence sources and methods" means classified information concerning

(a) methods of collecting foreign intelligence;

(b) all sources of foreign intelligence, whether human, technical, or other; and

(c) methods and techniques of analysis and evaluation of foreign intelligence

and which for reasons of national security, or in the interest of the foreign relations of the United States, has been specifically designated for limited or restricted dissemination or distribution, pursuant to authority granted by law, Executive order, or Directive of the National Security Council, by a department or agency of the United States Government which is expressly authorized by law or by the President to engage in intelligence activities for the United States;



(3) A person not authorized to receive information relating to intelligence sources and methods is not subject to prosecution as an accomplice within the meaning of sections 2 and 3 of Title 18, United States Code, or to prosecution for conspiracy to commit an offense under this subsection, unless he became possessed of the information relating to intelligence sources and methods in the course of his relationship with the United States Government;

(4) This subsection shall not prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or the House of Representatives of the United States, or a joint committee thereof;

(5) In any judicial proceeding hereunder, the court may review, in camera, information relating to intelligence sources and methods designated for limited or restricted dissemination or distribution for the purpose of determining the reasonableness of such designation and the court shall not invalidate the designation unless it determines that the designation was arbitrary and capricious;

(6) Whenever in the judgment of the Director of Central Intelligence any person has engaged or is about

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to engage in any acts or practices which constitute,

or will constitute, a violation of this subsection, or  
any rule or regulation issued thereunder, the Attorney  
General on behalf of the United States may make  
application to the appropriate court for an order  
enjoining such acts or practices, or for an order  
enforcing compliance with the provisions of this  
subsection, and upon a showing that such person has  
engaged or is about to engage in any such acts or  
practices, a permanent or temporary injunction,  
restraining order, or other order may be granted.

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Comparison of Department of Justice and CIA proposals to amend the National Security Act of 1947 to provide additional protection of Intelligence Sources and Methods from unauthorized disclosure

Section (g): The Justice version is simply the subtitle, "Disclosure of Classified Information," which is an incomplete description of the section. Also, the use of a subtitle is inconsistent with the format of the Act. The CIA version indicates the purpose of the amendment which is to further implement the DCI's responsibility for protecting intelligence sources and methods.

Subsection (1): The Justice bill includes in the definition of the special category of information to be protected the fact that the information is "classified." The inclusion of the word "classified" creates no practical difference from the CIA bill because the definition of "intelligence sources and methods" has been refined in the CIA version and now includes the element of classification.

The penalty in the CIA version has been reduced to five years and \$5,000 whereas the Justice version remains at ten years and \$10,000.

Subsection (2): The CIA version includes a more explicit definition of information relating to intelligence sources and methods including the requirement that it be classified information.

The CIA version makes the designation of the information to be protected that of "a department or agency of the United States Government

which is expressly authorized by law or by the President to engage in intelligence activities for the United States," whereas the Justice version limits the designation to the DCI pursuant to the authority vested in him by Executive Order and the National Security Council. The broader designation authority is necessary because departments and agencies in the Intelligence Community other than CIA possess information relating to intelligence sources and methods which requires protection.

Subsection (3): Identical except for the word "classified" in the Justice version which has no practical effect since the element of classification is incorporated in the definition in subsection (2) of the CIA version.

Subsection (4): Identical.

Subsection (5): There is no parallel provision in the Justice bill. The CIA version provides for judicial review of the designation of information as relating to intelligence sources and methods. This provision will protect a defendant in a case where the designation of the information as relating to intelligence sources and methods was arbitrary and capricious. The review of that determination is limited to an in camera proceeding, however, so as not to cause public revelation of additional sensitive information. A realistic and appropriate burden of proof as to the reasonableness of the designation is also established by the CIA provision.

Subsection (6): There is no parallel provision in the Justice bill. The CIA proposal provides for injunctive relief against unauthorized disclosure of protected information, but is applicable only to the limited class of individuals who are or have been in a special relationship with the United States Government as defined in subsection (1). Currently only the limited and cumbersome process of seeking injunctive relief based on contract theory is available to the Government. Marchetti v. U.S.

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A BILL

To amend the National Security Act of 1947, as amended, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 102 of the National Security Act of 1947, as amended, (50 U.S.C.A. 403) is further amended by adding the following new subsection (g):

(g) Disclosure of Classified Information

(1) Whoever, being or having been in duly authorized possession or control of classified information relating to intelligence sources and methods, or whoever, being or having been an officer or employee of the United States, or member of the Armed Services of the United States, or being or having been a contractor of the United States Government, or an employee of a contractor of the United States Government, and in the course of such relationship becomes possessed of classified information relating to intelligence sources and methods, knowingly communicates such information to a person not authorized to receive it shall be fined not more than \$10,000 or imprisoned not more than ten years, or both;

(2) For the purposes of this subsection, the term "classified information relating to intelligence sources and methods" means information relating to sources, methods or techniques concerning foreign intelligence which for reasons of national security or in the interest of the foreign relations of the United States has been specifically designated for limited or restricted dissemination or distribution by the Director of Central Intelligence pursuant to the authority vested in him by Executive Order and the National Security Council;

(3) A person not authorized to receive classified information relating to intelligence sources and methods is not subject to prosecution as an accomplice within the meaning of sections 2 and 3 of Title 18, United States Code, or to prosecution for conspiracy to commit an offense under this subsection, unless he became possessed of the classified information relating to intelligence sources and methods in the course of his relationship with the United States Government;

(4) This subsection shall not prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or the House of Representatives of the United States, or a joint committee thereof.

TAB



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

OLC 74-2334

12 NOV 1974

Honorable Lucien N. Nedzi, Chairman  
Subcommittee on Intelligence  
Committee on Armed Services  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

I regret to report to you a serious development affecting the safety and efficiency of members of this Agency. I provide it in keeping with my commitment to assure that you are fully and currently informed on matters of possible interest to your Committee.

A former employee of this Agency, Mr. Philip B. F. Agee, is currently engaged in a systematic effort to divulge information learned during his Agency employment. He stated in a press conference on 3 October 1974 in London that he is doing this as a part of a campaign "...to have the CIA abolished." Some of the information being disclosed (Agency organization, functions, personnel) specifically includes "intelligence sources and methods" which I am charged under the National Security Act of 1947 with "protecting from unauthorized disclosure." I am especially concerned at the danger these disclosures present to the safety of many of our personnel abroad, due to their exposure to possible terrorist action.

I am enclosing a Summary of Facts which notes that Mr. Agee may have violated several criminal statutes. It also points out the difficulty of deterring Mr. Agee while he is abroad and not under the jurisdiction of the United States.

The collection of foreign intelligence is critically dependent upon sources and methods which cannot exist unless they are protected. I am extremely proud of the overall outstanding loyalty and security record

of Agency employees and former Agency employees. Their conduct has been exemplary and is in keeping with the written agreement entered into at the beginning of their employment, pursuant to the statutory responsibility imposed upon the Director of Central Intelligence to protect intelligence sources and methods. This contrasts sharply with the irresponsible conduct of Mr. Agee who has violated his agreement by revealing classified information relating to intelligence sources and methods learned during the course of his employment.

Generally, the criminal statutes applicable to the disclosure of classified information require proof of intent to injure the United States or to aid a foreign country. However, prosecution under those statutes requires the Government to reveal in court the very information it is trying to protect; and, in most instances, the burden of proof requires the Government to expose additional classified information. This contrasts with numerous United States statutes (enclosed) penalizing the mere disclosure of information received in confidence by the Government; e.g., census and income tax information and agricultural statistics, where the motive for disclosure is not material.

In summary, despite the fact that Mr. Agee may have violated several criminal statutes and actions such as his can have a crippling effect on the flow of critical foreign intelligence information to the Government's policymakers, there are many serious problems inherent in his prosecution.

Thinking it may be of interest, I am also enclosing a copy of the letter Mr. Agee addressed to the Agency at the time of his resignation in 1968, which concludes: "I will continue to hold in high regard the importance of the Agency's activities in the interest of the security of the United States." I am unable to explain the contrast between this attitude and the intention he expressed in his press conference in London on 3 October 1974 to "expose CIA officers and agents and to take the

measures necessary to drive them out of the countries where they are operating." The contacts he has established in Cuba since leaving the CIA offer a possible explanation.

I will keep you advised of further developments.

Sincerely,

SIGNED

W. E. Colby  
Director

Enclosures

Distribution:

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1 - IC (wo/encl)  
1 - NIO (wo/encl)  
1 - Compt (wo/encl)  
1 - Mr. Thuermer (wo/encl)  
1 - OLC Subject (w/encl)

OLC:LLM:yet (11 Nov 74)

Identical letter sent to: Chairman John C. Stennis  
Chairman John L. McClellan  
Chairman George H. Mahon

STATUTES AFFECTING DISCLOSURE

18 U. S. C. 793 - Espionage laws - Criminal penalty for obtaining, copying, communicating national defense information.

18 U. S. C. 794 - Espionage laws - Criminal penalty for gathering or delivering defense information to aid foreign governments.

18 U. S. C. 798 - Criminal penalty for disclosure of any classified information prejudicial to U. S.

18 U. S. C. 952 - Criminal penalty for unauthorized publishing or transmittal to another of diplomatic codes and correspondence.

35 U. S. C. 186 - Criminal penalty for disclosure of patented information.

42 U. S. C. 2161-2166 - Atomic Energy Commission authority to protect Restricted Data.

47 U. S. C. 154 - Federal Communication Commission can withhold secret information affecting the national defense.

50 U. S. C. 141 - Criminal penalty for disclosure of information on manufacturing and distribution of explosives in connection with the national defense.

50 U. S. C. 403 - Director of Central Intelligence - protection of intelligence sources and methods.

50 U. S. C. 783b - Unlawful for government employees to communicate classified information to representatives of foreign governments

50 U. S. C. 783d - Criminal penalty for violation of 50 U. S. C. 783b.

50 U. S. C. Appendix 2026 - Prohibits unauthorized disclosure of confidential information on export controls.

5 U. S. C. 1396 - Employees of agency to which classified information is transferred are subject to the same disclosure restrictions as the transferor agency.

7 U. S. C. 135f - Criminal penalty for fraudulent disclosure of insecticide formulas.

7 U. S. C. 472 - Department of Agriculture - criminal penalty for unauthorized disclosure of cotton statistics and estimates.

7 U. S. C. 507 - Prohibits unauthorized disclosure of tobacco statistics.

7 U. S. C. 608d - Criminal penalty for unauthorized disclosure of information regarding payments under marketing agreements.

7 U. S. C. 955 - Prohibits unauthorized disclosure of peanut statistics.

8 U. S. C. 1202 - Visa information declared confidential.

12 U. S. C. 77 - Information regarding removal of a bank director by the Comptroller of the Currency shall not be disclosed.

13 U. S. C. 214 - Criminal penalty for disclosure of confidential information by Census Bureau employees.

15 U. S. C. 78x - Unlawful for employees of Securities and Exchange Commission to disclose information not made available to the general public.

15 U. S. C. 176a - Protects information of Bureau of Foreign and Domestic Commerce.

15 U. S. C. 717g - Prohibits unauthorized disclosure by employees of Federal Power Commission.

18 U. S. C. 605 - Criminal penalty for unauthorized disclosure of names of persons on relief for political purposes.

18 U. S. C. 1902 - Criminal penalty for unauthorized disclosure of crop information by U. S. government employee.

18 U. S. C. 1904 - Criminal penalty for unauthorized disclosure of Reconstruction Finance Corporation information.

18 U. S. C. 1905 - Criminal penalty for unauthorized disclosure of confidential information generally by U. S. Government employees.

18 U. S. C. 1906 - Criminal penalty for unauthorized disclosure of information by bank examiners.

18 U. S. C. 1907 - Criminal penalty for unauthorized disclosure of information by farm credit examiners.

18 U. S. C. 1908 - Criminal penalty for unauthorized disclosure of information by national agricultural credit corporation examiners.

26 U. S. C. 7213 - Criminal penalty for unauthorized disclosure of income tax information by U. S. Government or state employees; Criminal penalty for unauthorized disclosure of corporation financial statement by shareholders; Criminal penalty for unauthorized disclosure of operations of a manufacturer by U. S. Government employee.

38 U. S. C. 3301 - Veterans Administration files are confidential.

42 U. S. C. 1306 - Criminal penalty for unauthorized disclosure of certain information in possession of the Department of Health, Education and Welfare.

50 U. S. C. 2160 - Criminal penalty for unauthorized disclosure of confidential information by U.S. Government employee for purpose of commodity speculation.

5 U. S. C. 637 - Criminal penalty for unauthorized disclosure by Civil Service Commission employee regarding employment applicant.

35 U. S. C. 122 - Protection of patent applications.

7 U. S. C. 1159 - Protection of sugar information by Secretary of Agriculture.

26 U. S. C. 7237 - Criminal penalty for unauthorized disclosure of narcotics information.

39 U. S. C. 762 - Protection of postal savings depository fund information.

42 U. S. C. 260 - Protection of information regarding voluntary hospital commitment of narcotics addicts.

45 U. S. C. 362 - Protection of certain Railroad Retirement Board information.

46 U. S. C. 234 - Penalty of dismissal for any Coast Guard employee disclosing information on ship defects.

46 U. S. C. 643 - Protection of Coast Guard information on discharge of seamen.

46 U. S. C. 819 - Unlawful for common carrier to disclose confidential information to detriment of any other carrier.

47 U. S. C. 220 - Protects information from records examined by employees of the Federal Communication Commission.

47 U.S.C. 605 - Prohibits unauthorized publication or use of interstate or foreign communications.

48 U.S.C. 55 - Protects certain public voting information.

49 U.S.C. 15 - Protects certain information concerning shipments by common carrier.

49 U.S.C. 320 - Protects certain information of the Interstate Commerce Commission.

50 U.S.C. 139 - Protects certain information of the Bureau of Mines.

50 U.S.C. Appendix 327 - Criminal penalty for unauthorized disclosure of Selective Service information.

50 U.S.C. Appendix 1152 - Criminal penalty for unauthorized disclosure of certain information regarding acquisition of vessels.

50 U.S.C. Appendix 1896 - Protects certain housing and insurance information.



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